

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,)
)
 plaintiff.) APPEAL
) CR15-00707-PHX-SRB
vs.) Phoenix, Arizona
) March 3, 2016
Abdul Malik Abdul Kareem,) 1:02 p.m.
)
 Defendant.)
)
)

BEFORE: THE HONORABLE SUSAN R. BOLTON, JUDGE
REPORTER'S TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY 11
(Pages 1924 through 2057, Inclusive.)

APPEARANCES:

For the Government:

U.S. ATTORNEY'S OFFICE
By: Kristen Brook, Esq.
Joseph Edward Koehler, Esq.
40 North Central Avenue, Suite 1200
Phoenix, AZ 85004

For the Defendant Abdul Malik Abdul Kareem:

MAYNARD CRONIN ERICKSON CURRAN & REITER PLC
By: Daniel D. Maynard, Esq.
Mary Kathleen Plomin, Esq.
3200 North Central Avenue, Suite 1800
Phoenix, AZ 85012

Official Court Reporter:

Elizabeth A. Lemke, RDR, CRR, CPE
Sandra Day O'Connor U.S. Courthouse, Suite 312
401 West Washington Street, SPC 34
Phoenix, Arizona 85003-2150
(602) 322-7247

Proceedings Reported by Stenographic Court Reporter
Transcript Prepared by Computer-Aided Transcription

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

INDEXSUMMARY OF COURT PROCEEDINGSPAGE:

STIPULATIONS	Page 2000
GOVERNMENT RESTS	Page 1997
DEFENDANT'S ORAL MOTION FOR JUDGMENT OF ACQUITTAL	Page 2000

INDEX OF WITNESSES**SPECIAL AGENT STEWART WHITSON:**

Cross examination by (cont'd) Mr. Maynard	Page 1927
Redirect examination by Ms. Brook	Page 1965

DANIEL VAN HOOK:

Direct examination by Ms. Plomin	Page 2001
Cross examination by Mr. Koehler	Page 2013

DUNSTON REGINALD SIMPSON, II:

Direct examination by Mr. Maynard	Page 2017
Cross examination by Mr. Koehler	Page 2023

DUNSTON FRANCIS SIMPSON, SR.:

Direct examination by Mr. Maynard	Page 2025
Cross examination by Mr. Koehler	Page 2030

STUART SAMPSON:

Direct examination by Mr. Maynard	Page 2033
Cross examination by Mr. Koehler	Page 2042

ANTHONY SAMPSON:

Direct examination by Mr. Maynard	Page 2044
Cross examination by Mr. Koehler	Page 2052

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

INDEX OF EXHIBITS

	<u>EXHIBIT NO.:</u>	<u>DESCRIPTION:</u>	<u>RECEIVED:</u>
5	Exhibit No. 196	BMO Harris bank records	Page 1936
6	Exhibit No. 498	Letter to Elton Simpson from Hassan Abu Jihaad postmarked 9-15-14	Page 1994
7	Exhibit No. 545	Screen shots from LG 480-849-8104 re: AK74	Page 1952
8	Exhibit No. 546	Screen shot from LG 480-849-8104 re: \$700	Page 1961
9	Exhibit No. 558	E-mails between Rebecca Magnone and Stewart Whitson dated 12/14/15	Page 1942
10	Exhibit No. 565	Text messages MaxWest Phone 5/1/15 through 5/8/15	Page 1947

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 P R O C E E D I N G S

2 (Called to the order of court at 1:02 p.m.)

3 THE COURT: Good afternoon, ladies and gentlemen.

4 Please sit down. The record will show the presence of the
5 jury, counsel, and the defendant.6 Mr. Maynard, you may continue your cross-examination
7 of Agent Whitson.

8 MR. MAYNARD: Thank you, Your Honor.

9 **SPECIAL AGENT STEWART WHITSON, WITNESS, SWORN**10 **CROSS EXAMINATION (cont'd)**

11 Q Good afternoon, Agent Whitson.

12 A Good afternoon, sir.

13 Q A couple of -- a few followup questions that I have from
14 yesterday.15 In the course of your investigation, you determined
16 that Mr. Abdul Kareem did not ever have a Twitter account; is
17 that correct?

18 A Yes.

19 Q Okay. And did the FBI do a canvass of the apartment
20 complex that Simpson and Soofi lived in after this incident?
21 In other words, did they go door-to-door and talk to the
22 residents in the area?

23 A Yes.

24 Q And in the process of doing that, none of them --

25 Or strike that.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 You also, when that canvass was being done, you had
2 pictures of Simpson and Soofi; Nadir Soofi, Ali Soofi, Abdul
3 Kareem, and others, correct?

4 A Well, I didn't conduct the canvass, but a number of agents
5 did and I would assume they would have had pictures of all
6 those people. That's right.

7 Q The purpose of that canvass was to go there and say, "Can
8 you identified these people as either being here or living
9 here"?

10 A Yes. That would be, yes.

11 Q And is it fair to say that nobody identified Abdul Kareem
12 as ever coming over there?

13 A I don't recall there being anyone that did that.

14 Q Okay. You don't recall anybody who said, "I saw him
15 here"?

16 THE COURT: Well, he wouldn't recall what anybody
17 said because he didn't do it. So you can only ask him if
18 there were any positive results of people saying they had seen
19 him.

20 BY MR. MAYNARD:

21 Q I understand. From the 302 that you reviewed as part of
22 your investigation, is it fair to say that nobody identified
23 Mr. Abdul Kareem as having been there?

24 A I do not recall anyone from the apartment complex
25 remembering him.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q Okay. Now, we heard Ali Soofi's testimony yesterday and
2 there were a number of times that he had been interviewed by
3 the FBI prior to his coming in to testify, correct?

4 A Yes.

5 Q And you had participated in a number of those interviews?

6 A Yes.

7 Q I believe the last two?

8 A Two, yes.

9 Q One was in September where it was done telephonically --
10 or with a video camera?

11 A Yes.

12 Q He was in Kansas with a lawyer. You were here with
13 somebody from the U.S. Attorney's Office?

14 A Yes.

15 Q Okay. And you prepared a 302 from that interview?

16 A Yes.

17 Q But you did not videotape or audiotape that interview?

18 A Yes. I did not.

19 Q And you would have put down everything that you thought
20 was important that he said in that interview in your 302?

21 A Yes.

22 Q Okay. He never mentioned in that interview that he had
23 seen Abdul Kareem assisting or directing his brother and
24 Mr. Simpson in cleaning the weapons, did he?

25 A I would have to review my report to --

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q You had a notebook. Do you want to look at September --
2 September 29th?

3 A I have just reviewed my report from September 25, 2015,
4 and I don't see that he was asked that question or that he
5 provided any information related to cleaning or disassembling
6 or reassembling a weapon.

7 Q All right. And I said "September 29." That was the date
8 that the 302 was finalized and entered up in the top
9 right-hand corner, correct?

10 A Yes, sir.

11 Q But the interview actually occurred on September 25th?

12 A Yes.

13 Q Okay. You then flew to Dallas, Texas, and met with him at
14 his mother's house with Ms. Brook?

15 A In Texas.

16 Q In Texas. Somewhere near Dallas?

17 A Not near Dallas, but, yes, in Texas.

18 Q And you did not audio or videotape that interview?

19 A No, I did not.

20 Q That was the first time that he ever mentioned that he had
21 seen my client directing Mr. Soofi, his brother, and
22 Mr. Simpson in how to clean and disassemble any of these
23 weapons, correct?

24 A I think that's correct.

25 Q Okay. And that interview took place on January 29th of

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 2016?

2 A I'm not sure if I have a copy of that report with me. If
3 you have it --

4 THE COURT: Well, does that date sound about right?

5 THE WITNESS: That sounds about right, Your Honor.

6 MR. MAYNARD: Thank you.

7 BY MR. MAYNARD:

8 Q Now, additionally, as you were preparing for this trial,
9 you went into the jail, Maricopa County Jail, to interview
10 Mr. Verdugo, correct?

11 A Yes.

12 Q And that was to get him ready to come over here and
13 testify?

14 A What do you mean by that?

15 Q Well, I mean, didn't you want to go, as you had done with
16 Mr. Soofi, and follow up and see what his testimony would be?

17 A Not to see what his testimony would be, but I did conduct
18 an interview with him, a trial prep interview.

19 Q I mean, Mr. Soofi had been interviewed by the FBI on five
20 or six occasions. Yet you and Ms. Brook determined that it
21 was necessary to fly to Texas the end of January prior to this
22 trial. That was to see what his testimony was going to be,
23 correct?

24 A Not to see what his testimony was going to be. To
25 interview him and conduct a pretrial interview.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q Okay. You did the same thing with Mr. Verdugo, but you
2 did it in the county jail?

3 A Yes. I think -- I believe it was the county jail.

4 Q And you did not tape that interview either, did you?

5 A No. We do not tape interviews in the jail.

6 Q You can take a computer into the county jail, correct?

7 A I don't know what the -- what you're allowed to take into
8 the jail.

9 Q Did you ask anybody if you could bring in a recording
10 device?

11 A On the first time that I went to interview him, I did ask
12 if I could bring a recording device.

13 Q And in December of 2015 when you went to the county jail
14 to interview Mr. Verdugo, did you ask them if you could bring
15 in a recording device?

16 A If that was the first one -- so the first time we
17 interviewed him in the jail, I asked them if I could bring in
18 a recording device, yes.

19 Q And are you telling me that somebody told you that you
20 could not?

21 A Yes. The people in the entry area said they wouldn't
22 allow the recording device to be brought in.

23 Q Okay. And it was in that interview when you told
24 Mr. Verdugo that you would make a statement to -- or provide a
25 statement to the County Attorneys to assist him in the

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 prosecution that the County was bringing against him?

2 A No. I didn't make that statement.

3 Q Did you tell him you would provide him with a statement?

4 A No. I did not tell him I would provide him with a
5 statement.

6 Q Did you --

7 A But --

8 Q Did you prepare a statement?

9 A Ultimately, I prepared a statement.

10 Q What was the purpose of the statement?

11 A Based on my understanding that observations we had made
12 would contain potentially exculpatory material towards his
13 state charges. So in other words, we had witnessed things
14 that could tend to show his innocence, we had a constitutional
15 mandate to provide that information to the prosecutor to let
16 them know, you know, what we had observed.

17 Q And did you provide the prosecutors with this
18 constitutionally-mandated information?

19 A Yes. I provided it to the prosecutors.

20 Q And did you prepare it on the day before you went to
21 interview Mr. Verdugo?

22 A I believe it was prepared after.

23 Q Your Honor, can --

24 Well, Mr. Verdugo testified that he was -- I believe
25 he said he was shown a copy.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A No. That's impossible. He wouldn't have been shown a
2 copy of the statement I prepared. He was never shown a copy
3 of the statement I prepared by me.

4 Q Can Mr. Whitson be shown Exhibit 564.

5 Agent Whitson, is this one of the statements that was
6 prepared by you?

7 A Yes.

8 Q Okay. And were you aware that Agent Nash also prepared a
9 statement concerning his observations?

10 A Yes.

11 Q And was Mr. Verdugo told that the statements would be
12 prepared?

13 A Yes. He was told that.

14 Q Okay. And if you -- you knew that Mr. Vergudo had been in
15 custody with the County since June or July, correct?

16 A I don't recall the exact date of when he was --

17 Q Sometime in the summer?

18 A Yes.

19 Q I mean, you knew that your witness who had prompted you to
20 begin tailing my client 24 hours a day had been taken into
21 custody by the County Attorney's Office here?

22 MS. BROOK: Objection. Form of question.

23 THE COURT: Sustained.

24 BY MR. MAYNARD:

25 Q You knew that Mr. Verdugo had been taken into custody

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 sometime in the summer of 2015?

2 A Yes. I knew, yes.

3 Q Okay. And it just so happens that it's either the day of
4 or the day before you meet with him in December is the first
5 time you prepare this 302 concerning your observations that
6 would be exculpatory for him?

7 A Yes. I didn't know the details of why he was arrested.

8 Q Did the FBI --

9 Strike that.

10 Can the witness be shown Exhibit 196? May I
11 approach, Your Honor?

12 THE COURT: Yes.

13 BY MR. MAYNARD:

14 Q Agent Whitson, can you tell the jury what 196 is?

15 A Yes. 196 is a grand jury return from BMO Harris Bank for
16 bank accounts belonging to Abdul Malik Abdul Kareem.

17 Q And these are the -- these bank accounts have been
18 reviewed or forensically reviewed by an accountant for the
19 FBI?

20 A Yes.

21 Q And these are the bank records that you looked at when you
22 said that there was some unusual activity?

23 A Yes.

24 Q And these were the records where he had placed in a
25 \$10,000 deposit and then within days after that took on

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 November 13 --

2 THE COURT: Excuse me. I don't think this is in
3 evidence.

4 MR. MAYNARD: Sorry. I move for the admission of
5 Exhibit 196.

6 THE COURT: Is there any objection?

7 MS. BROOK: No objection.

8 THE COURT: 196 is admitted.

9 (Exhibit No. 196 admitted in evidence.)

10 BY MR. MAYNARD:

11 Q Okay. On what would be about the sixth or seventh page of
12 the document, these are the records that show a \$10,000
13 deposit. And then on November 13th there was a \$5,000
14 withdrawal?

15 A Yes.

16 Q Correct?

17 A Yes.

18 Q And you thought that was unusual?

19 A Not just because of those two facts, but, yes.

20 Q Okay. Can the witness be shown Exhibit 559.

21 Agent Whitson, have you ever seen Exhibit 559 before?

22 A I don't recognize it, but.

23 Q Does the yellow marker with the number 22 on it look
24 familiar to you?

25 A I mean, that looks like a marker that would be used at a

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 scene, but.

2 Q Do you know whether or not this is a copy of a notebook
3 that was taken from Mr. Abdul Kareem's vehicle when he was
4 arrested by the FBI on June 10th of 2015?

5 A I don't.

6 Q Okay. And I take it then, even though the notebook is
7 turned to a particular page and photographed, you don't recall
8 ever seeing this?

9 A I don't.

10 Q And so, therefore, you would have not done any
11 investigation concerning the information that is found on
12 Exhibit 559?

13 A Well, there is -- I did some investigation related to some
14 things that are written there.

15 Q But how would you have done that without looking at that?

16 Did you do a background on the truck that he had
17 purchased?

18 A Well, no. There's information there that looks like
19 information that came from other things and so I did
20 investigative efforts on those other things.

21 Q Did you do any investigation to determine when Mr. Abdul
22 Kareem had purchased the box truck, the 1998 box truck?

23 A Yes.

24 Q And what did you do?

25 A I checked with records with the Motor Vehicle Department.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q When did you do that?

2 A I did that yesterday.

3 Q That was the first time?

4 A Yeah. That I did -- that I did it, yes.

5 Q Are you aware of anybody else having done it?

6 A No.

7 Q Did you look -- did you look at Exhibit 559 over the
8 evening?

9 A No.

10 Q Okay. What did you find from the Motor Vehicle
11 Department?

12 A The records indicated that a GMC truck was purchased by
13 the defendant -- or I should say not purchased, but registered
14 with the State in or about January 20th, I believe, so January
15 20th of 2015.

16 Q Okay. Did you go back to look at any of the documents
17 that the FBI had recovered to determine if there was any sort
18 of receipt for the purchase of that truck?

19 A Yes. I looked.

20 Q And you didn't find 559?

21 A No, I did not. I did not see anything that looks like
22 this.

23 Q Okay. Can I have the witness have Exhibits 242 and 243
24 and may I approach?

25 THE COURT: The clerk?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 MR. MAYNARD: No. I don't need to. I'm sorry.

2 Is 242 in evidence?

3 THE COURT: It is not. Only 243 is this evidence.

4 BY MR. MAYNARD:

5 Q Do you have 243 in front of you?

6 A Yes, I do.

7 Q Have you seen this photograph before?

8 A It looks familiar.

9 MR. MAYNARD: If it's in evidence, can I publish it?

10 THE COURT: Yes.

11 BY MR. MAYNARD:

12 Q Do you know where the FBI found this photograph?

13 A I don't recall for this one.

14 Q Do you know who this is?

15 A I think so. The picture is kind of hard to see.

16 Q Who do you believe it is?

17 A But it looks like Nathaniel Soofi, which is Nadir Soofi's
18 son.

19 Q Okay. And did the FBI interview Nathaniel Soofi?

20 A Yes.

21 Q In this case we've heard from three witnesses so far that
22 said they knew about the Muhammad Drawing Contest before it
23 occurred. Would you agree with that?

24 A Could you say that again?

25 Q Yeah. We heard -- Mr. Verdugo said he had heard about the

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Muhammad Drawing Contest before it occurred.

2 A Yes.

3 Q And the two juveniles, Carlos and Juan, both said they had
4 heard about that drawing contest before it occurred?

5 A Yes.

6 Q Okay. Did anyone else in your investigation, anyone tell
7 you that they had heard of that contest before it occurred
8 other than those two individuals -- those three individuals?

9 A No, not that I recall.

10 Q Do you recall whether or not Mr.-- the young boy in the
11 photograph indicated that he knew about the contest before --

12 MS. BROOK: Objection. Hearsay as to any content of
13 conversations.

14 THE COURT: Sustained.

15 BY MR. MAYNARD:

16 Q Okay. Did you participate in the preparation of the
17 indictments in this case?

18 A What do you mean?

19 Q Did you review them? Approve them?

20 A No. I wouldn't, no. I would provide information that
21 they may have used in crafting that.

22 Q Are you aware how many indictments there are in this case?

23 A Yes. I believe so.

24 Q Okay. The first indictment was when?

25 A It would have been on June 10th of 2015.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q So can you explain to the jury what an indictment is?

2 A Well, an indictment is where the case is presented
3 before -- and in this case it was a grand jury -- and so the
4 case is presented before the grand jury. And then the grand
5 jury votes on whether they believe there is sufficient cause
6 to justify indicting that individual or charging them with
7 those offenses.

8 Q And at a later date there was a superseding indictment
9 that was filed; is that correct?

10 A Yes.

11 Q And a superseding indictment is one that adds new charges?

12 A Yes.

13 Q And then at a later date there was a second superseding
14 indictment that was charged -- filed?

15 A Yes.

16 Q And that last one is the one that is here in front of this
17 jury, correct?

18 A Yes.

19 Q And that one charged my client for the first time with
20 Conspiracy to Provide Material Support to a Foreign Terrorist
21 Organization; is that correct?

22 A Yes.

23 Q And that was done on or about September 22nd of 2015?

24 A That sounds right.

25 Q Were you happy when it was -- the government brought that

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 second superseding indictment?

2 A No.

3 Q No?

4 A I don't think "happy" is a right way to describe that.

5 Q Didn't you think this was a fantastic thing for the
6 government to do?

7 A To do what?

8 Q Charge him with Conspiracy to Provide Material Support to
9 a Foreign Terrorist Organization?

10 A No. I didn't think that was a happy thing to do.

11 Q Could you show the witness Exhibit 558.

12 Agent Whitson, have you seen Exhibit 558 before?

13 A I have not seen this exhibit.

14 Q You have seen it before, correct?

15 A I recognize it that it's an e-mail.

16 Q There was an e-mail that was written to you by somebody at
17 the U.S. Department of Justice, correct?

18 A Yes.

19 Q And then you wrote an e-mail back to that person and
20 others, correct?

21 A Yes.

22 MR. MAYNARD: Okay. I would move for the admission
23 of Exhibit 558.

24 MS. BROOK: No objection.

25 THE COURT: 558 is admitted.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 (Exhibit No. 558 admitted in evidence.)

2 BY MR. MAYNARD:

3 Q Agent Whitson, when you were told that the FBI -- or the
4 U.S. Attorney's Office here in Phoenix, Arizona, had been
5 approved for conspiracy to file -- conspiracy to provide
6 material support as outlined in your e-mail, your response
7 was:

8 "Fantastic news. Thank you or three -- thank you all
9 three of you for all the hard work. I know there is going to
10 be a lot of people in our organization who will be very
11 pleased."

12 You thought in was fantastic, didn't you?

13 A I was thanking them for their hard work, yes.

14 Q And the people in your organization that you're talking
15 about is the FBI, correct?

16 A Yes.

17 MR. MAYNARD: Your Honor, I don't have any more
18 cross-examination, but I believe that Ms. Plomin has some.

19 THE COURT: Yes. This will be --

20 That was your last question?

21 MR. MAYNARD: Yes, ma'am.

22 THE COURT: Ladies and gentlemen, I made an exception
23 to my rule that only one lawyer could participate for each
24 side in the examination or cross-examination of a single
25 witness because Ms. Plomin has handled all of the

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 computer-related evidence in this case and Mr. Maynard has
2 handled other evidence in the case.

3 So there's not going to be any repetition of anything
4 that Agent Whitson has already been asked, but now we're going
5 to focus this part of the cross-examination on the --

6 I said "computer," but more broadly, the electronic
7 communication.

8 MS. PLOMIN: Thank you, Your Honor.

9 **CROSS EXAMINATION**

10 BY MS. PLOMIN:

11 Q Good afternoon, agent.

12 A Good afternoon, ma'am.

13 Q Madame Clerk, can we please give Agent Whitson Exhibits
14 544 through 546 and 565.

15 And, Agent, did you also bring Exhibit 48 with you,
16 the physical exhibit? It has been admitted.

17 A I don't know if that's here. What is it, do you know?

18 THE COURT: It's described as a black LG flip phone.

19 THE WITNESS: I don't believe that's here in the
20 courtroom right now.

21 BY MS. PLOMIN:

22 Q Okay. Okay.

23 Now, Agent Whitson, I want to first direct your
24 attention to Exhibit 565. Do you have that in front of you?

25 A Yes.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q And do you recognize Exhibit 565 or what's depicted in
2 Exhibit 565?

3 A It looks like text messages going back and forth from
4 users.

5 Q And do you recognize those as text messages from Abdul
6 Malik Abdul Kareem's cell phone, Maxwest cell phone?

7 MS. BROOK: Objection. Hearsay.

8 THE COURT: Overruled. He's being asked if he can
9 identify that that is what is in this document.

10 THE WITNESS: I'm trying to see its number.

11 MS. PLOMIN: And I would also offer it under the rule
12 of completeness, Your Honor.

13 THE WITNESS: I don't see his number on here, but it
14 looks like these may be text messages from Mr. Kareem.

15 BY MS. PLOMIN:

16 Q Okay. You reviewed the text messages from Mr. Kareem's
17 Maxwest cell phone, correct?

18 A Yes.

19 Q And those would have been very important to you in your
20 investigation here, correct?

21 A Yes.

22 Q And we're looking at the dates of May 1st, 2015, through
23 May 3rd, 2015. Were those significant dates in this
24 investigation?

25 A Yes.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q And just -- what date was the Garland attack on?

2 A The attack occurred on May 3rd.

3 Q And so May 1st would have been the Friday before the
4 attack, correct?

5 A Correct.

6 Q Now, if you could turn to the message on May 1st, 2015, at
7 5:21:07 p.m.

8 MS. BROOK: Your Honor, if I may, I think our
9 exhibits may be on the witness stand with Special Agent
10 Whitson.

11 Can I just approach to get our copy of these exhibits
12 so we can follow along?

13 THE COURT: You mean your copy of 565?

14 MS. BROOK: Right. Not the ones that the clerk has
15 given him, but some additional copies.

16 THE COURT: Okay.

17 MS. BROOK: Thank you.

18 Apparently, they're not up there.

19 BY MS. PLOMIN:

20 Q It's three lines up from the bottom of the first page.

21 A Yes.

22 Q Now, starting with that text message on May 1, 2015, at
23 5:21 p.m. and reading down from that, take a look at those and
24 see if you recognize those.

25 A Yes.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q And where do you recognize those came from?

2 A I believe these are text messages that came from
3 Mr. Kareem's phone to various people.

4 Q Okay. And is this a fair and accurate depiction of the
5 text messages that you reviewed from Mr. Kareem's phone from
6 May 1st, 2015, through May 3rd, 2015?

7 A Yes. It looks like a portion of those records.

8 MS. PLOMIN: Your Honor, I move to admit Exhibit 565
9 and publish.

10 THE COURT: Is there any objection?

11 MS. BROOK: Your Honor, we object to hearsay as well.

12 THE COURT: Overruled. 565 is admitted.

13 (Exhibit No. 565 admitted in evidence.)

14 BY MS. PLOMIN:

15 Q I want to direct your attention to the first text message
16 on May 1st at 5:21 p.m.

17 A Yes.

18 Q And could you read for us the text messages from May 1st,
19 2015, at 5:21 p.m. through May 2nd, 2015, 8:44:07 a.m. which
20 is on the second page.

21 THE COURT: Well, first, to the extent that you know
22 who the phone numbers are that they are going out to, can you
23 tell us that too?

24 THE WITNESS: I don't know that.

25 THE COURT: Okay.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 THE WITNESS: So there's other individuals who would
2 be more qualified to do this, the analyst that was in charge
3 of this project.

4 MS. PLOMIN: Okay. I'm just interested in what the
5 content of the messages are for the jury.

6 THE WITNESS: Okay.

7 Should I begin?

8 Q Yes.

9 A "Salaam walekum."

10 "Salam walaikum brother I'm inviting you to lunch
11 tomorrow I'm marinating the goat the night inshallah lunch
12 start at one."

13 Q Can I just stop you.

14 If you could read if they are outgoing or ingoing
15 text messages?

16 A Those two were out.

17 Q Okay.

18 A And then in:

19 "Walaikum salaam shukran for the invite but I finish
20 work at 3 and I think I'll have to watch my daughter, if I can
21 I'll try to make it."

22 And then out at 9:37 p.m.:

23 "Salam walaikum brother I'm cooking curry goat
24 tomorrow Jamaican style I invite you tomorrow at 1 o'clock."

25 At 9:41 out:

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 "Salaam walaikum I'm marinating the meat for the
2 curry it start at 1."

3 At 9:41:56:

4 "Just let the brothers know."

5 And then keep going?

6 Q Yes. Please.

7 A 9:42 p.m. an in-message:

8 "Will be working."

9 9:42 p.m. in says:

10 "In sha allah."

11 9:45 p.m.

12 "Alright excited inshaAllah Ill try and make it. I
13 work but I'll see if I could leave for like 30 mints. How
14 early can i come."

15 And then 10:02 P.m. an in:

16 "What happened."

17 And then 5/2 at 8:43 a.m.

18 "You can come early as you want."

19 As an out message.

20 Q And what's the last message there, the next message?

21 A At 8:44 a.m. an in-message says:

22 "Koo."

23 Q Is that slang for "cool"?

24 A That would be my guess, yes.

25 Q All right. So over the course of your investigation

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 through these text messages, was it your understanding that
2 Mr. Abdul Kareem was inviting some people over for lunch the
3 following day after May 1st?

4 A Based on these text messages alone, yes.

5 Q Okay. Now can you please look at Exhibit 544, 545, and
6 546.

7 A Yes. I'm set.

8 Q So you have reviewed Exhibit 544 through 546?

9 A Yes.

10 Q Do you recognize what's depicted in those three exhibits?

11 A Yes.

12 Q And what is depicted in those exhibits?

13 A This is the LG 44G cell phone that was recovered from
14 Dallas. It was a phone that was believed to be utilized by
15 Elton Simpson. And these are screen captures where the CART
16 folks have gone in and taken pictures of the phone and what
17 they can see on the screen.

18 Q And you reviewed those screen captures, correct?

19 A Yes.

20 Q And let's start with Exhibit 544 --

21 Well, first I want to ask you. You said that this
22 phone was attributed to Mr. Elton Simpson; is that right?

23 A Yes.

24 Q I want to show you a document, Mobile Device Analysis
25 Report.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Do you recognize what that is?

2 A I recognize what that report is.

3 Q And what is that report?

4 A That would be a cover sheet for a report that would come
5 from a CART examiner when they're examining a device.

6 Q And does this indicate what the cover sheet -- what device
7 this cover sheet is for?

8 A Yes, it does.

9 Q And which device is that?

10 A It shows it for the device with the telephone number
11 ending 8104.

12 And could I check my notes for something real quick?

13 Would that be all right?

14 Q Sure.

15 A Okay.

16 Q So isn't it true that this phone was actually attributed
17 to Mr. Nadir Soofi?

18 A Yes. I misspoke. This is actually a phone attributed to
19 Nadir Soofi according to this sheet.

20 Q Okay. And it was found in Mr. Soofi's car in Dallas -- or
21 in Garland, Texas?

22 A I don't recall its exact location, but I understand that
23 this is a phone that was recovered in Garland.

24 Q I'm going to turn your attention to Exhibit 545.

25 Your Honor, I ask for permission to admit Exhibit

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 545.

2 THE COURT: Is there any objection?

3 MS. BROOK: No objection.

4 THE COURT: 545 is admitted.

5 (Exhibit No. 545 admitted in evidence.)

6 BY MS. PLOMIN:

7 Q Have you seen this text message before?

8 A Yes.

9 Q When did you first see this text message?

10 A I don't recall the first date I saw it, but at some point
11 during the investigation I looked through these.

12 Q All right. The report date is May 5th, 2015, so did you
13 review this pretty early on in your investigation?

14 A I don't recall exactly when I reviewed it, but I know I
15 reviewed it at some point in the investigation.

16 Q Okay. The phone number on the screen from 6025131626, do
17 you know whose phone number that is?

18 A I believe and I'm not a hundred percent certain.

19 Q Okay. Did you or any other agent interview a man by the
20 name of Christian Leon after viewing this text message?

21 A Yes.

22 Q Do you know if that phone number belongs to Mr. Leon?

23 A I believe that is the case, but I don't know with a
24 hundred percent certainty that that's his phone number, but I
25 believe that.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q All right. And can you read the content of the text
2 message, the date and time?

3 A Yes. It says -- there was a message sent from phone
4 number ending in 1626. It says:

5 "Do you still want to get the AK-74?"

6 It was sent on January 6th of 2015 at 7:01 a.m.

7 Q And that was an incoming message to the phone attributed
8 to Mr. Soofi, correct?

9 A Yes.

10 Q And after that text message at 7:01 a.m., these were --
11 Well, let me actually back up.

12 This report that you are viewing, a portion of the
13 report, is it essentially screenshots of the various text
14 messages and phone calls that occur from a phone?

15 A Yes.

16 Q And so after this message came in to Mr. Soofi's phone,
17 "Do you still want to get the AK-74?" there were several calls
18 back and forth between this number ending in 1626, correct?

19 A I don't know that there were several calls back and forth
20 between the numbers.

21 Q Why don't you look at the rest of the exhibit to see if it
22 refreshes your recollection.

23 A Okay. I have reviewed it.

24 Q All right. And were there several calls following this
25 text message that came in to Mr. Soofi's phone?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Yes. It looks like there were four.

2 Q Were there actually five?

3 A I count four.

4 Q Including page 2?

5 A No. I actually do. See a fifth because there's two lines
6 on the same one, so, yes, there were five.

7 Q Okay. I'm putting page 2 of the exhibit on the screen for
8 the jury.

9 What does that indicate to you?

10 A This is -- this phone received a call from 1626, so from
11 6025131626, on January 6th at 7:41 a.m. and that the call
12 lasted approximately 4 minutes and 10 seconds.

13 It's hard to read a little bit, but I can't see if
14 that's a 4 or a 1 on this screen. Looks like one minute. It
15 looks like one minute and 47 seconds.

16 Q Well, let's go back.

17 The first received call from 1626 about the text
18 message about the AK74 lasted for 4 minutes and 10 seconds; is
19 that right?

20 A Yes.

21 Q Okay. And the second page indicates another dialed call
22 at 8:18 a.m. the same morning, correct?

23 A Yes.

24 Q And then there were two more received calls at 8:53 a.m.
25 and 9:08 a.m. the same morning of that text message, correct?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Yes.

2 Q And finally, there was a dialed call at 9:14 a.m. on
3 January 6, 2015, to the phone number that texted about the
4 AK74 at 9:14 a.m., correct?

5 A Yes.

6 Q And you said after viewing these text messages, you or
7 other agents from the FBI went and interviewed Christian Leon,
8 true?

9 A Yes.

10 Q And have you reviewed the 302s relating to that interview?

11 A I did.

12 Q All right. Were those 302s important to you that this
13 person was communicating with Mr. Soofi about buying an AK74?

14 A Yes.

15 Q Okay. So the interviewers were Robert Tobias and Joseph
16 Mulligan. Do you know who that is?

17 A Yes. I know who they are.

18 Q Who do they work for?

19 A They are special agents with the FBI.

20 Q Did you direct them to go and conduct that interview?

21 A I did not direct them to conduct that interview but
22 someone did.

23 Q As the case agent investigating Mr. Abdul Kareem at the
24 time, you were not the person who directed them to go
25 interview somebody else who's communicating with them about

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 AK-74s?

2 A No. At that time, remember, the Simpson/Soofi
3 investigation had their investigators.

4 And so all the devices that came from the
5 Simpson/Soofi investigation, that would have been a lead
6 generated by those agents. So it would have been those agents
7 that asked them to go conduct that interview and not me.

8 Q So you weren't following a lead that pointed in a
9 direction other than to Mr. Abdul Kareem in purchasing or
10 selling the AK-74?

11 A What do you mean by that?

12 Q You were the case agent for Mr. Abdul Kareem in May of
13 2015, true?

14 A Beginning May 8th, yes.

15 Q Beginning May 8th.

16 And the interview of Mr. Leon was on May 20th of
17 2015. Does that sound right?

18 A That sound right.

19 Q And you had already interviewed Mr. Abdul Kareem on
20 May 5th, correct?

21 A Yes.

22 Q And on May 12th you spoke to him?

23 A Yes.

24 Q And you had already spoken to Mr. Verdugo several times?

25 A Yes.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q And the FBI was following Mr. Kareem 24 hours a day?

2 A Yes.

3 Q All right. And you were suspicious of Mr. Kareem for
4 providing the guns that Mr. Soofi and Mr. Simpson took to
5 Garland, Texas, correct?

6 A I don't know if I knew that yet at that time.

7 Q Okay.

8 A I don't know -- I don't think I knew that fact yet.

9 Q You knew that fact?

10 A No. I don't think I knew that fact yet. When the
11 interviews of Mr. Leon took place, I don't think I knew that
12 yet.

13 Q Well, you didn't think you believed that yet; is that
14 right?

15 A No. I said I didn't know that fact that he provided those
16 weapons until after that date, I believe. So the first
17 indication came from the interview of Sergio Martinez-Chavez
18 and that occurred on May 20th.

19 Q Okay. So you didn't know for sure. You weren't there.

20 You're saying it's the first time your investigation
21 led you in that direction was at that time?

22 THE COURT: You're arguing -- that's argumentative.

23 He says it the way he says it. You say it a
24 different way.

25 BY MS. PLOMIN:

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q Okay. The interview with Mr. Leon, did you learn in the
2 course of your investigation that Mr. Leon was, in fact,
3 selling an AK-74 in January of 2015?

4 A I did not learn that. He claimed he had sold it in
5 October of 2014.

6 Q Okay. And then he was interviewed again on May 28th of
7 2015. Did you review that 302?

8 A I don't recall a second one.

9 Q I'm putting a document on the screen to refresh your
10 recollection as to whether or not you reviewed the interview,
11 the May 28th interview of Mr. Leon.

12 A I don't recall if I have seen this one or not, but it
13 contains some of the same information from the other one.

14 Q All right. So you were not aware that Mr. Leon told the
15 FBI that he was selling an AK-74 in January of 2015?

16 A I don't remember seeing this.

17 Q I'm just asking.

18 So you're not aware testifying today --

19 THE COURT: He just answered the question,
20 Ms. Plomin.

21 BY MS. PLOMIN:

22 Q And during the course of your investigation, did it become
23 clear -- did you learn that Mr. Leon was selling an AK-74 of
24 the same caliber and same make that was found in Garland,
25 Texas?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A I learned that he -- yes, that he had sold -- he claimed
2 he had sold one that matched those same things, yes.

3 Q All right. And what was the make and the caliber of the
4 AK-74 that was found in Garland, Texas?

5 A It was an AK-74, 5.45x39 millimeter caliber weapon.

6 Q And who was it made by?

7 A Elk River Tool and Die.

8 Q And that was the same weapon Mr. Leon said he was selling
9 in January?

10 A That same kind.

11 Q Now, after learning this information about Mr. Leon, did
12 you investigate his Backpage account to determine who or with
13 whom he communicated about this AK-74?

14 A There were other, so I did not personally, no.

15 Q And did the FBI?

16 A It's my understanding that they did, yes.

17 Q They reviewed his Backpage account?

18 A I don't know that they reviewed his Backpage account.

19 Q Did you do a -- ask for a consent or do a search warrant
20 for his e-mails?

21 A I did not.

22 Q Did the FBI do that?

23 A Not that I know of.

24 Q Did you obtain a copy of his cell phone records? Did you
25 ask for consent or write a search warrant for that?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A I did not.

2 Q Did the FBI do that?

3 A I don't believe -- what's that?

4 Q Did the FBI do that?

5 A I don't know if we did.

6 Q Did you interview anybody that Mr. Leon knew to determine
7 whether he had a connection to Mr. Soofi and Mr. Simpson?

8 A I personally?

9 Q Yes.

10 A I did not personally that I know.

11 Q Did the FBI do that?

12 MS. BROOK: Objection. Speculation.

13 THE COURT: Overruled. You may answer if you know.

14 THE WITNESS: I don't know if the FBI did that.

15 BY MS. PLOMIN:

16 Q What did you do to follow up with Mr. Leon and the text
17 message you found in Mr. Soofi's phone?

18 A Me personally?

19 Q The FBI that you know of?

20 A Well, from -- so from the two -- it sounds like they did
21 an initial interview and then interviewed him again to see if
22 there was any more to it or any information we could use and
23 determined there was not.

24 Q All right. And did you -- did the FBI do anything to
25 follow up on that interview or those interviews?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Not that I know of.

2 Q All right. Could you look at Exhibit 546, please.

3 A Yes.

4 Q Have you seen Exhibit 546 before?

5 A Yes. I recognize it.

6 Q And that came from Mr. Soofi's phone as well?

7 A Yes. I believe so.

8 Q Your Honor --

9 And is this an accurate depiction of what you saw in
10 the report from Mr. Soofi's phone?

11 A Yes.

12 MS. PLOMIN: Permission to admit and publish, Your
13 Honor.

14 THE COURT: Is there any objection to 546?

15 MS. BROOK: No objection.

16 THE COURT: 546 is admitted.

17 (Exhibit No. 546 admitted in evidence.)

18 BY MS. PLOMIN:

19 Q What date was this text message on?

20 A It's January 5th of 2015.

21 Q And 10:46 p.m.?

22 A Yes.

23 Q And the content says "\$700," correct?

24 A Yes.

25 Q And the phone number who the message is from ending in

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 7302, did the FBI determine whose phone number that was?

2 A Yes.

3 Q And whose phone number was that?

4 A It was an individual named Baiz, I believe. B-A-I-Z.

5 Q Ali Biaz?

6 A Yes. That's right.

7 Q And did the same agents who interviewed Mr. Leon interview
8 Mr. Biaz?

9 A I'm not sure who conducted the interview.

10 Q Did you review a 302 from a May 20th interview from
11 Mr. Ali Biaz?

12 A I don't recall the date, but I did review an interview of
13 him.

14 Q Would it refresh your recollection to look at the 302 for
15 the date?

16 A Yes.

17 Q Does that refresh your recollection?

18 A Yes.

19 Q And what date was that interview on?

20 A It was on or about May 20th of 2015.

21 Q And in your review of this 302, did you learn in the
22 course of your investigation that Mr. Biaz was selling an
23 AK-47 in January 2015?

24 A Yes.

25 Q And can you tell us a little bit about Mr. Biaz?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Have you ever interviewed him?

2 A No.

3 Q And did you learn how much Mr. Biaz was asking -- how much
4 money Mr. Biaz was asking for the sale of that AK-47 in
5 January of 2015?

6 A I did.

7 Q How much was that?

8 A He was asking \$700 for his AK-47.

9 Q All right. And Mr. Biaz -- did you learn that he actually
10 had seen Mr. Simpson shopping in his parents' market?

11 A That he had -- when?

12 Q He had seen Mr. Simpson before.

13 A At some point in the past or something?

14 Q Yes.

15 A I'm not aware of that, but.

16 Q Do you know if he was shown pictures of Mr. Simpson and
17 Mr. Soofi to see if he knew them?

18 MS. BROOK: Your Honor, I object to hearsay and
19 speculation.

20 THE COURT: Sustained.

21 BY MS. PLOMIN:

22 Q So with respect to Mr. Biaz, when did you learn about this
23 information in Mr. Biaz's interview on May 20th, 2015?

24 A This was another one of those that as it was -- the
25 investigation was going on, I believe it came to my attention

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 and I saw it.

2 Q All right. Any idea when you learned of it?

3 A I don't recall the exact date.

4 Q Do you think it was in 2015?

5 A Yes.

6 Q All right. And once you learned that Mr. Biaz had been
7 communicating with Mr. Soofi about an AK -- well, about \$700
8 and he was selling an AK-47, what did you do to investigate
9 him?

10 A Well, when I reviewed the 302 of his interview, I
11 determined there was no need based on the information in that
12 302.

13 Q Okay. So you didn't review any of his accounts or his
14 financial records, anything aside from his word?

15 A No. Yeah. Based on the description of the weapon he was
16 selling, I determined that there was no need.

17 Q All right. And that description came from him, correct?

18 A From the investigators there who were filling out the --
19 who were drafting the report.

20 Q Right. But you didn't have any definitive evidence? You
21 just had what he told them, correct?

22 A That's what I -- yes.

23 Q And Mr. Leon and Mr. Biaz both denied selling those
24 weapons to Mr. Soofi, right?

25 A Yes. Both denied that.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q And you decided to take their word for it and not
2 investigate any further; is that right?

3 MS. BROOK: Objection, Your Honor. Asked and
4 answered.

5 THE COURT: Sustained.

6 MS. PLOMIN: I don't have anything further.

7 THE COURT: Ms. Brook.

8 MS. BROOK: Thank you.

9 **REDIRECT EXAMINATION**

10 BY MS. BROOK:

11 Q Good afternoon.

12 A Good afternoon, ma'am.

13 Q So let's start off right where defense counsel left off in
14 talking about Mr. Leon and Mr. Biaz.

15 Defense counsel has asked you about tracking down
16 prior owners of weapons in order to determine the source or
17 derivative purchase of the weapons found in this particular
18 case.

19 A Yes.

20 Q What's a trace report?

21 A A trace report is an official report produced by the ATF.
22 And, essentially, it's an official report that lists the
23 current registered owner of a firearm.

24 Q So does it show exactly who the current owner of a firearm
25 may be?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Not necessarily.

2 Q So can you explain that?

3 A Yes. So in some states, Arizona included, if a private
4 owner sells a handgun to another private owner, there's no
5 record that's required to be kept.

6 And so the records that ATF has are records that are
7 given, you know, when this firearm is originally purchased.
8 So typically, for people in Arizona, that would be the person
9 who purchased it from a gun store or from a commercial
10 enterprise of some sort.

11 They would produce that report that ATF would have,
12 but then there would be no record of who they sold it to or
13 who that person had sold it to and on and on.

14 Q So in those cases where there are not official trace
15 reports because the keep weapon itself wasn't purchased
16 through a federal firearms licensee or something where those
17 reports are generated, how might you determine where a weapon
18 came from?

19 A Well, there's two ways, I guess.

20 One, is if the person who had the weapon told you who
21 they got it from, obviously, you could determine.

22 But the only other way is to basically just start
23 from the original purchaser or the one you have to go
24 interview them to see if they were the ones that provided it
25 or sold it directly to the person who last it now.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 If not, maybe they'll give you a description of the
2 person they did sell it to. Then you need to go find that
3 person and interview them and on and on and on.

4 And so depending how long that chain is, it can
5 obviously get a little convoluted.

6 Q So how many weapons did ATF do trace reports on in this
7 particular case?

8 A Eight.

9 Q And did you review those reports?

10 A Yes, I did.

11 Q Did you attempt to trace the path of these weapons to
12 Simpson and Soofi and also the two weapons to the defendant?

13 A Yes, I did.

14 Q Did you have any success?

15 A On two accounts.

16 Q What were those?

17 A So, one of the ATF reports listed Nadir Soofi as the
18 original owner, so obviously, we were able to determine that
19 that 9 millimeter high point that was discovered in Garland,
20 that was originally purchased by Nadir Soofi.

21 The other one we had success on was the 38 Special
22 that was found in Mr. Kareem's moving truck that he, you know,
23 admitted that was his.

24 That gun, the original owner, was a man named Sean
25 Raper. He was an individual that testified here. And so when

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 we went out and interviewed Mr. Raper, he provided a detailed
2 description of who the person was he had sold it to. Without
3 us talking to him, he mentioned details about Mr. Kareem that
4 we know he wouldn't have known.

5 MR. MAYNARD: That's beyond the scope -- it's
6 hearsay.

7 THE COURT: I think he stopped answering when you
8 started objecting and Ms. Brook is going to ask a new
9 question.

10 BY MS. BROOK:

11 Q So let's go back to that 9 millimeter high point that you
12 talked about and you said that there was a trace history
13 tracing it back to Nadir Soofi.

14 That was purchased from a gun store, an FFL?

15 A Yes.

16 Q In what year?

17 A It was in or about 2010.

18 Q And then the other trace report was the 38 Special that
19 Sean Raper had testified about selling it to the defendant.

20 A Yes.

21 Q So with the other six weapons, what did you do to take
22 steps to identify if you could find the person that sold those
23 weapons?

24 A Yes. So as soon as we received those trace reports, leads
25 were sent out to investigators in the areas where those

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 original owners resided and interviews were conducted to see
2 if they could determine, first of all, whether that original
3 owner had directly supplied the weapon.

4 Or, like I had explained before, whether that
5 original owner had given it to someone else. And then if that
6 "someone else" was able to be identified, additional leads
7 were sent to go interview that someone else and so on.

8 Q Were you also able to look at text messages in this
9 particular case and attempt to track down if a sale of a
10 weapon happened based upon some text messages that you saw?

11 A Yes.

12 Q Ms. Plomin showed you a couple of different text strings.
13 One was Exhibit No. 545. Was this the conversation with
14 Mr. Leon?

15 A Yes.

16 Q And based upon the 302 that was shown to you in your
17 investigation in this particular case, did the followup with
18 Mr. Leon lead to any useful evidence in this case?

19 A It did not lead to any useful evidence.

20 Q Can you explain that?

21 A Yes. So Mr. Leon's description of the person he'd sold
22 the weapon to changed. The type of vehicle that was
23 described, I think -- I believe it was a red Jetta was the
24 person had driven in. And so based on all that information,
25 there was no conclusive way for us to get any investigative

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 value from the information he was providing us.

2 Q And in this case are you aware of Elton Simpson, Nadir
3 Soofi, or the defendant driving a red Jetta?

4 A I am not.

5 Q Additionally, the visual description of the individual he
6 sold that AK to, did it in any way match any of the suspects
7 in this case?

8 A It didn't. And the other thing from the text messages, we
9 couldn't tell that a sell had ever actually taken place. So
10 if we had, you know, evidence in there where, "hey, thanks for
11 the sale, it was a pleasure doing business," you know, a
12 message of that sort, we could have drawn more conclusions.

13 But based on the text messages we have, we couldn't
14 confirm that a sale had taken place from them either way.

15 Q These particular text messages that we have seen and that
16 are admitted, were they consistent with evidence that you have
17 seen in this case regarding Nadir Soofi's interest in
18 purchasing an AK-style weapon in January of 2015?

19 MR. MAYNARD: Objection to the form of the question.

20 THE COURT: Overruled. You may answer.

21 THE WITNESS: They are consistent.

22 BY MS. BROOK:

23 Q Defense counsel also showed you Exhibit No. 546.

24 Based upon your investigation, were these the
25 communications, the text messages recovered with Mr. Biaz?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Yes.

2 Q Additionally, based upon the timing of these particular
3 text messages, what probative value did they have in your
4 investigation based upon the requests or what the individual
5 Mr. Soofi was looking for?

6 A I'm sorry. Could you repeat the question?

7 Q Did they have any value, the text messages, in terms of
8 what Nadir Soofi was looking for in January of 2015?

9 A Yes.

10 Q How so?

11 A Well, as -- I know Ali had testified there's a weapon that
12 was purchased for \$700. So, obviously -- and we had
13 information to believe that weapons were purchased around that
14 date.

15 So clearly, we were interested in anything that would
16 come up that would indicate who that potential seller was.

17 Q I want to talk about Mr. Biaz and the report that he gave.
18 Based upon the 302 and the information you had about the
19 communications back and forth with Mr. Biaz, was there any
20 indication that a sale was made?

21 A There was no indication that a sale was made.

22 Q And, additionally, the AK-style weapon that Mr. Biaz was
23 attempting to sell, what make was that?

24 A I can't recall the full name but it was Century.

25 Q I'm going to place on the overhead a report which is not

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 admitted into evidence. Does that refresh your recollection?

2 A That does.

3 Q And, specifically, what was the weapon that Mr. Biaz was
4 attempting to sell back in January of 2015?

5 A So the AK that he was selling was called a Century Arms,
6 so Century Arms brand AK-47.

7 Q And is that in any way consistent with any of the weapons
8 involved in this case?

9 A It is not. They are not that brand.

10 Q I want to turn next to Exhibit No. 565 which defense
11 counsel was asking you about. I'm going to place them on the
12 overhead.

13 Are these the text messages from the defendant's
14 phone, that Maxwest phone, on May 1st and May 2nd?

15 A Yes.

16 Q And can you tell us what is -- what was Elton Simpson's
17 phone number during this time period?

18 A I believe the last four were 8392, I believe.

19 Q And in cross-referencing those last four digits, do you
20 see any contact with Elton Simpson on May 1st or May 2nd?

21 A I don't. Could you please slide it up?

22 MS. BROOK: May I, Your Honor, just bring him the
23 physical exhibit?

24 THE COURT: He actually has it.

25 MS. BROOK: Oh, great. All right.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 THE WITNESS: I do not see any contacts with that
2 number.

3 BY MS. BROOK:

4 Q Defense counsel asked you about a lunch invitation.

5 Again, I'm just turning to page 2. So page 2 takes
6 us down to the middle of May 2nd. Again, do you see that
7 number?

8 A I do not.

9 Q And next, I'm going to focus in on that first text message
10 that defense counsel asked you about, the invitation that went
11 out, and you don't see any text messages to Elton Simpson?

12 A I don't see any to Elton Simpson.

13 Q Was the invitation for dinner or lunch?

14 A It's for one o'clock.

15 Q A meal at one o'clock?

16 A A meal at one o'clock.

17 Q And just for clarification, that was one o'clock on
18 Saturday, the 2nd?

19 A Yes.

20 Q Based upon review of text messages in this case, have you
21 seen text message exchanges in the previous day, earlier, and
22 I guess on April 30th back and forth with Elton Simpson and
23 the defendant?

24 A Yes.

25 Q And what was the nature of those communications?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A I recall there being approximately, you know, six calls
2 back and forth, two of which were seven-minute duration calls
3 between the two on the evening of the 30th.

4 Q And do you recall what the purpose of those messages were,
5 the text messages?

6 A I don't recall off the top of my head.

7 Q I'm going to place on the overhead what has already been
8 admitted and published as Government's Exhibit No. 478.

9 In looking at these messages, what have you inferred
10 was the time where dinner with Elton Simpson was set up?

11 A It would have occurred between 7:12 and 9:12 p.m.

12 Q On what day?

13 A On April 30th, which was a Thursday.

14 Q Okay. And, additionally, can you read for us the message,
15 the 9:12 message on May 1st of 2015?

16 A "Wa Alaykim salam wrwb. Sorry about yesterday for the
17 punches and for today akhi. I won't be able to make it. I
18 know you hooked it up though. LOL."

19 Q Defense counsel has asked you a number of questions about
20 interviewing individuals and witnesses in this particular
21 case. And is it routine for the FBI to record interviews for
22 people who are not considered to be suspects?

23 A No.

24 Q Describe for us what is a noncustodial interview?

25 A A noncustodial interview is a voluntary interview. It's

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 one where someone comes in or meets us voluntarily. They can
2 leave at any time. They can -- and end the interview at any
3 time. So just completely voluntary.

4 Q And what's a consensual interview?

5 A A consensual is essentially the same thing. So it
6 would -- we've asked them, "May we interview you." And the
7 person has said, "Yes you may." And then an interview takes
8 place.

9 Q Is there a policy within the FBI about when an interview
10 should be recorded?

11 A Yes.

12 Q What's that policy?

13 A Whenever we're doing what's called a custodial interview,
14 the policy is there is a presumption that it will be recorded.

15 So a custodial interview, obviously, is if someone is
16 under arrest or they're essentially not free to leave, that
17 they're being, you know, brought in in that sense. That's a
18 custodial interview. So in that case there is a presumption
19 we will record.

20 However, with the policy, obviously, there are still
21 exceptions to that presumption, various circumstances where it
22 wouldn't. But the general presumption is that it will be
23 recorded.

24 Q Is it a mandatory rule that it must be recorded?

25 A It's a presumption. Because there's exceptions to it, I

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 don't know if I would say it's a mandatory rule.

2 It is the general -- I can't think of any situations
3 where one of the exceptions has been used, so.

4 Q So what is the rule as it relates to consensual
5 interviews?

6 A For consensual or those voluntary interviews, our policy
7 says you may record.

8 Q Okay. Again, is it a rule that you must record?

9 A No. And it's generally not -- in a noncustodial
10 interview, it would generally not be the practice to record an
11 interview.

12 Q Can you explain that?

13 A Yes. So FBI agents and other employees too at the FBI
14 conduct interviews all the time. And so most of those
15 interviews, they can range from people just coming into the
16 office to tell us about things they're concerned with. They
17 may be us going out into the community and meeting with
18 community leaders and having interviews and discussions to a
19 wide range of things.

20 And so most of those interviews are just simply not
21 going to be recorded.

22 Instead, agents are trained at the FBI -- you know,
23 FBI Academy at Quantico on how to conduct interviews, to
24 remember them and take notes and that sort of thing. And then
25 to memorialize those interviews when needed to on what I

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 described earlier as an FD 302 which is our form.

2 Q So your interview with the defendant on May 5th of 2015,
3 was -- what type of interview was that?

4 A That was a noncustodial interview, so voluntary interview.

5 Q We have heard testimony from you about how you, Special
6 Agent Taylor, and Detective Nash worked together to attempt to
7 record that interview.

8 Before the interview happened, did you tell the
9 defendant that it was going to be recorded?

10 A I did not.

11 Q The recording equipment itself, was it -- was it set up in
12 a place where it couldn't easily be seen?

13 A Yes. It was concealed.

14 Q Defense counsel has asked you about --

15 THE COURT: I just wanted to follow up because I
16 think one of the juror's questions was: Why would you
17 surreptitiously record a noncustodial interview?

18 THE WITNESS: Okay. Well, that -- so again, it's
19 abnormal to do that.

20 But in a case like this, I think, where, you know, an
21 attack had taken place and people were coming in who may be
22 associates and to kind of take an extra step because of the
23 magnitude that there was a lot of people involved, obviously,
24 I wasn't a case agent for that case. I was just someone
25 assisting them at that point.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 And so there was that added benefit of capturing a
2 recording so then that agent on those cases could actually go
3 in and listen to that recording again as well and then also
4 they could read my report.

5 But for all of those reasons, and again, in this
6 case, there were case agents on the Simpson/Soofti matters and
7 that was kind of their call to make that they wanted to have
8 all their interviews recorded.

9 And so that's why initially you'll see a lot of the
10 interviews conducted towards the beginning of the
11 investigation are all recorded because that was kind of a
12 general mandate that came down from those case agents.

13 Obviously, then later as the investigation moves,
14 then that judgment call of whether or not a recording is
15 needed would have fallen to me then once it got to the part
16 for my investigation, if that makes sense.

17 THE COURT: But why surreptitious?

18 THE WITNESS: Oh, sorry, Your Honor. That was your
19 question.

20 So the reason to do it surreptitiously, obviously,
21 there's times when a recording will be put on the table and
22 you can record and interview that way.

23 But my experience, just like taking notes in front of
24 someone while you're talking to them, it's extremely
25 distracting. And I think, again, you know, our job is to get

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 at the truth, whatever that truth is, we want the truth.

2 And so if there's something we can do that can put
3 people at ease and we can just get the truth, whatever that is
4 from them, then I think that's the best policy.

5 And so in these kind of circumstances, obviously, if
6 I told them, you know, in an interview like that that it was
7 being recorded, I think it would be less likely that I would
8 get completely honest answers versus if I told them that it --
9 if I didn't tell them either way whether it was being
10 recorded.

11 BY MS. BROOK:

12 Q So the interview on May 5th of 2015, Detective Nash took
13 copious notes?

14 A Yes.

15 Q And I just want to talk about your practice. So you
16 mentioned before that oftentimes it's the case that you do
17 interviews and there isn't recording equipment set up
18 simultaneously.

19 Is it routine for you to write and draft reports
20 based upon notes --

21 MR. MAYNARD: Objection, Your Honor. This has been
22 asked and answered a number of times.

23 THE COURT: Sustained.

24 BY MS. BROOK:

25 Q I want to talk about the security camera.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Defense counsel asked you questions about a
2 particular e-mail and communications with an individual within
3 the FBI who said they couldn't recover the information on the
4 SD card.

5 A Yes.

6 Q Are you aware of any agent ever requesting security camera
7 footage from your office's security camera in any
8 investigation?

9 A I have never heard of that ever being done in any
10 investigation.

11 Q Security camera footage, does it contain audio?

12 A No. It's video only.

13 Q Can you explain for us where exactly was the video camera
14 positioned in the interview room -- the interview room where
15 you conducted the interview with the defendant on May 5th?

16 A So our interview rooms have a small camera that's located
17 in the ceiling that kind of pans down on the room. It's a
18 wide-angle shot that's -- its intention is to capture all the
19 movement in the room.

20 Obviously, it's security, so it's primarily for
21 safety consideration. So to make sure you can see the entire
22 room and know if anyone is in that room and then also to be
23 able to see their behavior.

24 And then obviously, that feed is monitored in what we
25 call an Op Center so they can see what's going on. So should

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 we be in an interview room and something bad were to happen,
2 there would be people watching that who could then send aid to
3 us. That's its purpose.

4 Q The angle itself, is it focused in on anybody's faces?

5 A No. No. So like I said, it's a wide-angle camera that's
6 kind of aiming down from the ceiling. It's mostly the top of
7 your head.

8 So kind of the way we're sitting, it would have been
9 coming down the back of our heads and kind of the top of
10 Mr. Kareem's head. And, again, it's not really designed to
11 capture what's going on. There's no audio, obviously, but
12 it's to see where everyone is moving, where your hands are,
13 that kind of thing, for safety purposes.

14 Q Defense counsel also asked you about recording pretrial
15 witness interviews with prosecutors.

16 A Yes.

17 Q In this case did you record those interviews?

18 A Pretrial interviews?

19 Q Correct.

20 A Never. No.

21 Q And in any case have you ever recorded pretrial
22 interviews?

23 A Never.

24 Q In your experience what's the general purpose of a
25 pretrial witness interview?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A So a pretrial interview is an opportunity for the
2 prosecutors to speak with a person who is a potential witness
3 to kind of explain what the process is going to be, what they
4 can expect, that kind of thing, just to give them a general
5 overview of the process.

6 And then also to go through the things that -- the
7 information they have provided and then to make sure the
8 prosecutors have a complete understanding of all that
9 information.

10 Q And during the course of interviewing any witness, have
11 you ever told any of them what any other witness has said?

12 A Never.

13 Q In pretrial witness interviews, is there an admonition
14 that's given to every witness?

15 A Yes.

16 Q What is it?

17 A It's just to tell the truth. So over -- any time you go
18 to pretrial interview, that's going to be something that's
19 repeated over and over to kind of help set them at ease.

20 It's just at the end of the day when you're on the
21 stand, just tell the truth and then you don't have to think.
22 You just tell the truth.

23 So that's the only admonition that's given.

24 Q And in this case in any interview or every interview that
25 you conducted pretrial or during the investigation itself,

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 when new information came forward, did you generate a report?

2 A Yes.

3 Q Defense counsel has asked you about 302s. Are those the
4 reports that you generate?

5 A Yes. Those are the reports.

6 Q And every time there is new or additional information, do
7 you note it and put it into a report?

8 A Yes. Any time new information comes out, obviously, I
9 will put that in a report.

10 Q From the beginning in this case, approximately how many
11 302 reports have been drafted?

12 A This is a guess, but I would say probably 300 to 400 or
13 more, maybe even more than 400.

14 Q And did you author every single report?

15 A No.

16 Q Approximately, how many FBI agents were involved in the
17 investigation of this case?

18 A Between the various field officers throughout the United
19 States, I would say more than 200 special agents for sure.

20 Q And how many intelligence analysts?

21 A My estimate, probably minimum of 20 analysts, again, from
22 offices throughout the United States that would have been
23 involved.

24 Q Defense counsel asked you specifically about Ali Soofi's
25 interviews. He spoke about the two pretrial interviews; one

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 in September and another one in January.

2 He asked you about the September interview and asked
3 whether or not Ali Soofi talked about disassembling,
4 lubricating, and reassembling weapons, how he had watched the
5 defendant teach Simpson and Soofi how to disassemble,
6 lubricate, and reassemble the weapons.

7 MR. MAYNARD: Objection to the form of the question.

8 THE COURT: Sustained.

9 BY MS. BROOK:

10 Q He asked you about how Ali Soofi reported in January that
11 process.

12 A Yes.

13 Q In September during that interview, you were there for it?

14 A Yes.

15 Q At any point was Ali Soofi asked whether or not he had
16 seen anybody disassemble, lubricate, or reassemble weapons?

17 A He was not asked that.

18 Q In the January interview, was he specifically asked that
19 question?

20 A I think as he was reliving the moment and talking about --

21 MR. MAYNARD: Objection.

22 THE COURT: Yes. Could you answer Ms. Brook's
23 question. It was:

24 "In the January interview was he specifically asked
25 that question?"

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 THE WITNESS: I think, yes, eventually, yes.

2 THE COURT: Excuse me, Ms. Brook. We're going to
3 take our afternoon break.

4 Ladies and gentlemen, we will reconvene in 15
5 minutes. You're reminded of the usual admonitions.

6 Court is in recess for 15 minutes.

7 (Recess taken at 2:32 p.m.; resumed at 2:47 p.m.)

8 THE COURT: Thank you. Please sit down. The record
9 will show the presence of the jury, counsel, and the
10 defendant.

11 Ms. Brook, you may continue.

12 MS. BROOK: Thank you, Your Honor.

13 BY MS. BROOK:

14 Q Defense counsel asked you questions about Stefan Verdugo
15 and the process of interviewing him and how everything came
16 forward.

17 When this investigation began, did the FBI seek out
18 Stefan Verdugo?

19 A No.

20 Q Can you explain that?

21 A Yes. Stefan Verdugo came forward of his own free will, I
22 guess. After seeing the news reported, he reached out and
23 contacted the FBI.

24 Q And the information that Stefan Verdugo provided, was that
25 before or after he was arrested and charged in that other

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 case?

2 A It was before.

3 Q After it came to the FBI's attention that Stefan Verdugo
4 had been charged in another case, did the FBI assist in
5 arresting Stefan Verdugo?

6 A Yeah. It was actually the FBI that arrested Stefan
7 Verdugo.

8 Q Defense counsel asked about the \$500 payment that Stefan
9 Verdugo received. Was that before or after he had provided
10 information?

11 A That was after he had already provided information.

12 Q Did Stefan Verdugo ever request any money?

13 A No. He never asked for a cent.

14 Q Why did the FBI pay him \$500?

15 A Well, there were a couple reasons.

16 First, meeting with him, we were requiring him to
17 meet us at very late hours and in locations throughout the
18 Phoenix Metro area and we were asking him to provide his own
19 transportation to those areas. So part of it was just to give
20 him money to pay for the fuel and gas, you know, that kind of
21 thing, so that he would continue to agree to meet with us as
22 the investigation moved forward.

23 The other reason was we learned in our talks with him
24 that he had a fine for a suspended license. And so there was
25 a worry that in the course of our investigation, he could get

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 pulled over for that suspended license and not be able to
2 continue to assist.

3 And so when we found out that amount was around \$500,
4 we told him we would give him \$500, expecting him to pay that,
5 so that he would not have a suspended license anymore and so
6 then he could continue to go forward.

7 Q Defense counsel asked you if during suspect interviews you
8 lie to somebody that you're interviewing?

9 A Yes.

10 Q Why do you do that?

11 A Well, it's -- sometimes people are less than forthcoming
12 and so there is a need, occasionally. But essentially, I mean
13 I'm trying -- I don't think I have ever -- the only lie I have
14 ever given is pretended I know more than I really know.

15 MR. MAYNARD: Objection. It's beyond the scope of
16 the question. He's now going beyond that.

17 THE COURT: The objection is overruled. The answer
18 will stand.

19 BY MS. BROOK:

20 Q Are you trained tactically at the FBI to use that?

21 A Yes.

22 Q How so?

23 A Well, so by -- so basically, how we describe it as
24 whenever you're going to make an accusation, you need to be
25 able to back up that accusation with facts.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 And so there comes a point when you may need to kind
2 of create those, so to create the appearance that we know more
3 than we really do, and then that encourages the person we're
4 interviewing to tell us the information we don't know.

5 And then as we receive that information we don't
6 know, we use that and piece it together as the interview is
7 going on to then draw other conclusions, again, as a way to
8 motivate them to tell us the truth.

9 Q Defense counsel yesterday asked you if you are invested in
10 this case. What did you mean?

11 A By "invested"? Well, I mean, like any of my cases,
12 obviously, it's my duty to do the best I can to successfully
13 see the investigations to a conclusion. So I'm invested in
14 all my cases in that sense.

15 Q And "cases," do you have more cases than just this case?

16 A Yes. Yes. Actually, I have twelve.

17 Q Defense counsel also asked you about an e-mail from
18 December. And I'm going to put it on the overhead. It's 558,
19 an e-mail where you stated:

20 Fantastic news. Thank you all three -- or thank you
21 all three of you for all the hard work.

22 Can you explain that?

23 A Yes. This was -- so in the process of pursuing the
24 different charges, there was a lot of work being done by
25 individuals. And so, essentially, I was just trying to send

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 an e-mail to thank people for their hard work and to motivate
2 them to continue to want to work hard.

3 These are the same kind of, you know, e-mails I would
4 send for other members of the team when they, you know, work
5 long hours.

6 I think as we described, the 24/7 surveillance, so
7 obviously, we weren't doing surveillance for 24/7 but we were
8 working 24/7 until we knew this investigation had been done,
9 you know, same like we do all our investigations.

10 And so when I saw this e-mail, again, that was just a
11 way to try to make everyone -- you know, to tell the people I
12 appreciated their hard work.

13 Q Did you believe that the charged were merited based upon
14 the evidence in this case?

15 MR. MAYNARD: Objection to the form of the question
16 and also calls for -- well, speculation.

17 THE COURT: Overruled. You may answer.

18 THE WITNESS: Yes. I mean, obviously that --

19 THE COURT: "Yes" is sufficient.

20 THE WITNESS: Yes. Yes.

21 BY MS. BROOK:

22 Q And do you have any personal stake in the outcome of this
23 case?

24 A No. I mean, other than it's my job to find the truth and
25 to do the best job I can on every case I have. So as long as

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 that's being accomplished, then that's good.

2 Q Defense counsel asked you about the timing of drafting a
3 report for -- in conjunction with Stefan Verdugo.

4 And, specifically, he asked about a report that was
5 drafted on December 16th of 2015. And defense counsel stated
6 that that report was drafted prior to visiting Verdugo in
7 custody.

8 A Yes.

9 Q I want to place on the overhead what has not been
10 admitted. In looking at that report, does that refresh your
11 recollection on the date that the interview was conducted with
12 Stefan Verdugo at the Lower Buckeye Jail?

13 A Yes.

14 Q And what date was it?

15 A It was on December 15, 2015.

16 Q So a day before the report was drafted?

17 A Yes.

18 Q During the break did you have a chance to refresh your
19 recollection on Elton Simpson's phone number?

20 A Yes.

21 Q And what is it?

22 A Well, it's the last four ending in 6382.

23 Q So going back and placing on the overhead what's already
24 been admitted as 565 and cross-referencing that number with
25 these text messages, do you see any contact between the

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 defendant and Elton Simpson in terms of inviting him over to
2 dinner or lunch on May 2nd?

3 A I do not.

4 Q Defense counsel asked you about whether you subpoenaed
5 medical records for the defendant related to his claim that
6 Karen -- or Karen Gonzalez-Fabian hit him.

7 A Yes.

8 Q Don't tell us what was said, but did somebody from the
9 National Insurance Crime Bureau call you?

10 A Yes.

11 Q And do you know what the National Insurance Crime Bureau
12 is?

13 MR. MAYNARD: Objection, Your Honor. It's beyond the
14 scope.

15 THE COURT: Overruled.

16 THE WITNESS: The National Insurance Crime Bureau is
17 a nonprofit organization that teams up with law enforcement
18 and insurance companies, and basically, assists them in
19 identifying and prosecuting those who engage in insurance
20 fraud.

21 BY MS. BROOK:

22 Q Did you speak to somebody from the National Insurance
23 Crime Bureau?

24 A Yes, I did.

25 Q With whom did you speak?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A I spoke with a Special Agent. His name was Guy Walters.

2 Q What did you do after talking to Mr. Walters?

3 A After talking to Mr. Walters, I contacted the victim of
4 the information he had sent, which was Karem Fabian, and asked
5 her for details surrounding the April 6th, 2015, incident
6 where she claimed, you know, someone had banged on her trunk
7 of her car.

8 Q Defense counsel asked you if the defendant's fingerprints
9 were found on any of the guns found at the crime scene in
10 Garland.

11 To your knowledge, were any of Elton Simpson's prints
12 found on any of the weapons at the scene in Garland?

13 A Not -- his fingerprints were not found, nor his DNA on any
14 of the evidence in Garland, so weapons or the notebooks or the
15 ISIS flags or anything, no Elton Simpson.

16 Q Yesterday defense counsel asked you about an indented
17 writing.

18 A Yes.

19 Q Was the letter itself ever recovered?

20 A No.

21 Q And when you received information back from the lab about
22 the contents of that indented writing, that page, was there a
23 date written on that page?

24 A There was not.

25 Q Was there a name written about who it was to?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A No. It was addressed to Ismala which is a greeting.

2 MS. BROOK: Can I collect Exhibit 555, 556, and 557
3 for Maureen to use on the overhead?

4 THE COURT: Yes.

5 BY MS. BROOK:

6 Q Defense counsel yesterday asked you about some envelopes
7 that were found at Elton Simpson's and Nadir Soofi's house.

8 A Yes.

9 Q Specifically, he asked you about three of them. And I
10 want to walk through them one at a time.

11 The first is Exhibit No. 557, already admitted. I'll
12 span out and then focus in.

13 In looking at this and having seen the original,
14 what's the postmark date on this?

15 A It's postmarked August 4th of 2010.

16 Q I want to turn to the second which is already admitted,
17 Exhibit No. 556, and then I'm going to zoom in.

18 What's the postmark date on this letter?

19 A This is March 12th, of 2012.

20 Q I want to turn last to the third letter which is Exhibit
21 557 and then zooming in.

22 I think I transposed that. Hang on one moment. We
23 looked at that one.

24 Let's do this one 555. Zooming out and now all the
25 way into the date. What was the postmark date on this

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 particular letter?

2 A This letter was postmarked September 15th, 2014.

3 Q Have you had occasion to review the letter that was
4 contained within this envelope?

5 A Yes, I have.

6 Q And the government is going to move to admit Government's
7 Exhibit No. 498. Let me put it on the overhead so the witness
8 can identify it.

9 Do you recognize this?

10 A I do.

11 Q And what is it?

12 A This is the letter that was inside that envelope that was
13 dated 2014 and addressed to Elton Simpson.

14 MS. BROOK: The government moves to admit
15 Government's Exhibit No. 498.

16 MR. MAYNARD: Objection. Lack of foundation. Plus
17 it's beyond the scope.

18 THE COURT: The objection is overruled. 498 is
19 admitted.

20 (Exhibit No. 498 admitted in evidence.)

21 MR. MAYNARD: Can I have a copy?

22 BY MS. BROOK:

23 Q I want to take a step back.

24 So Hassan Abu Jihaad who is that?

25 A Hassan Abu Jihaad was an individual originally from

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Phoenix who was indicted on terrorism and espionage charges in
2 or about 2008 for information he provided to al-Qa'ida while
3 employed as a member of the U.S. Navy.

4 Q The letter we looked at just a moment ago which is now
5 admitted, have you had an opportunity to read and review this
6 letter?

7 A Yes. I have read this letter before.

8 Q And does this letter discuss a khalif?

9 A Yes, it does.

10 Q What does it say?

11 A Well, it includes a series of printouts, essentially,
12 arguing against the legitimacy of the Islamic State's
13 declaration of the khalifate.

14 Q Can you explain that?

15 A Yes. So in or about June 29, 2014, the Islamic State
16 declared a khalifate.

17 So they declared that they were going to have this
18 single khalif or leader of you Ummah, which is the community
19 of Muslims throughout the world.

20 They declared that on June 29th. And obviously, with
21 that declaration, there came those that were in favor of it
22 and those that were adamantly opposed to it.

23 And these particular letters are from someone who is
24 adamantly opposed to the declaration of the khalifate. This
25 comes from, again, Abu Jihaad who is an al-Qa'ida supporter

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 and al-Qa'ida and the Islamic State as Mr. Kohlmann --

2 MR. MAYNARD: Your Honor, this is beyond the scope.

3 Lack of foundation.

4 THE COURT: Sustained. I think it goes beyond your
5 question.

6 MS. BROOK: And we can move on to the next line of
7 questioning.

8 BY MS. BROOK:

9 Q Defense counsel asked you about the tracking and
10 monitoring of the defendant starting on May 8th of 2015 and
11 carrying through to June 10th of 2015 when he was arrested in
12 connection with this case.

13 A Yes.

14 Q Are you familiar with whether or not there was a tracking
15 device that was placed on his car?

16 A There was.

17 Q How did the FBI learn about Sergio Martinez-Chavez?

18 A From that tracking device.

19 MR. MAYNARD: Your Honor, that's beyond the scope.

20 THE COURT: Overruled. You may answer.

21 THE WITNESS: So information obtained from that
22 tracking device, as well as surveillance, revealed that
23 Mr. Kareem drove to Sergio Martinez-Chavez's house on the
24 night of May 14th of 2015 and that he arrived there just
25 before midnight still on the 14th on or about.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 MS. BROOK: May I have a moment?

2 THE COURT: Yes.

3 MS. BROOK: I don't have any further questions.

4 THE COURT: Thank you, Agent Whitson. You may step
5 down.

6 Does the government have any further evidence to
7 present?

8 MR. KOEHLER: Your Honor, subject to reading a
9 stipulation or two stipulations and subject to reviewing all
10 of our exhibits with the clerk to make sure everything is in,
11 the government will rest at this time.

12 THE COURT: Well, why don't you go ahead with your
13 stipulations then.

14 So I just want to review with the jurors. It was
15 covered in the preliminary instructions, but essentially, a
16 "stipulation" is as to agreed-upon facts. That is, both sides
17 agree that these facts are true.

18 So Mr. Koehler is going to read a stipulation that
19 the government has proposed. And then I will ask Mr. Maynard
20 if he agrees to those facts and that will be agreed-upon
21 facts.

22 **STIPULATIONS**

23 MR. KOEHLER: The United States of America and
24 defendant Abdul Malik Abdul Kareem, through undersigned
25 counsel, stipulate and agree to the following:

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 ISIL As a Designated Foreign Terrorist Organization:

2 The parties agree that at all times material to the
3 Second Superseding Indictment, the Islamic State of Iraq and
4 the Levant, aka ISIL, aka ISIS, was a designated foreign
5 terrorist organization.

6 DNA Analysis:

7 The parties stipulate and agree that the following is
8 an accurate description of DNA testing results on the items
9 described from the crime scene in Garland, Texas:

10 Exhibit 5. KelTec 9 millimeter Rifle: DNA was
11 recovered and identified as belonging to Nadir Soofi.

12 Exhibit 7. Elk River Tool & Die AK-74 Rifle, 5.45 by
13 39 millimeter: DNA was recovered from the firearm and its
14 strap. DNA from the firearm was inconclusive for Elton
15 Simpson and Nadir Soofi, and was excluded for Abdul Malik
16 Abdul Kareem. DNA from the strap was inconclusive for Elton
17 Simpson, Nadir Soofi, and Abdul Malik Abdul Kareem.

18 Exhibit 10. Romarm Cugir Draco AK-47 Pistol, 7.62 by
19 39 millimeter: No DNA was recovered from the firearm.

20 Exhibit 12. Taurus Model 605, .357 Magnum Revolver:
21 DNA was recovered from the firearm and identified as belonging
22 to Elton Simpson.

23 Exhibit 15. Hi-Point C9 9 millimeter Pistol: A
24 mixture of male and female DNA was recovered from the firearm
25 magazine; the DNA results were inconclusive for Elton Simpson,

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Nadir Soofi, and Abdul Malik Abdul Kareem.

2 Exhibit 17. Jiminez Arms JA9, 9 millimeter Pistol:

3 DNA was recovered and was inconclusive for Abdul Malik Abdul
4 Kareem.

5 Exhibit 36. Black Tapco double magazine: DNA was
6 recovered from the tape joining the magazines and was excluded
7 for Abdul Malik Abdul Kareem.

8 Exhibit 72. Black bulletproof vest (not worn): DNA
9 was recovered from the tape -- I'm sorry.

10 I read that wrong. I'm going to withdraw that
11 because I don't have it.

12 Exhibit 109. Wittman item 6, diabetic test strip:
13 The item did not contain sufficient DNA to perform a
14 comparison.

15 Exhibit 112. Tanfoglio 9 millimeter Pistol (Kareem
16 Apartment): DNA was recovered and was inconclusive for Abdul
17 Malik Abdul Kareem.

18 Hair Analysis:

19 Exhibit 68. White bullet proof vest and carrier
20 Item W (Soofi): Hairs recovered from the bulletproof vest and
21 carrier were excluded for Abdul Malik Abdul Kareem.

22 No hair sufficient for comparison was recovered from
23 the firearms in this case.

24 That ends the stipulation.

25 THE COURT: Are those your stipulations, Mr. Maynard?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 MR. MAYNARD: They are.

2 THE COURT: Okay. The jury may accept those facts as
3 agreed upon.

4 Does the government rest?

5 MR. KOEHLER: Yes, Your Honor.

6 **GOVERNMENT RESTS**

7 THE COURT: And would you like to begin with your
8 witnesses tomorrow morning?

9 MR. MAYNARD: No. I have got witnesses I would like
10 to start now.

11 THE COURT: Okay. So why don't you come see me for
12 one moment at sidebar and then we will have you call your
13 first witness.

14 (At sidebar on the record.)

15 **DEFENDANT'S ORAL MOTION FOR JUDGMENT OF ACQUITTAL**

16 MR. MAYNARD: I make a motion for judgment of
17 acquittal.

18 THE COURT: The motion is taken under advisement. I
19 will hear argument on it at a later time.

20 MR. MAYNARD: Thank you.

21 (End of discussion at sidebar.)

22 THE COURT: Mr. Maynard, you may call your first
23 witness.

24 MS. PLOMIN: Defense calls Daniel Van Hook.

25 (Witness duly sworn.)

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 THE CLERK: Please state your name for the record and
2 spell your last name.

3 THE WITNESS: Daniel VanHook. V-A-N-H-O-O-K.

4 THE COURT: Is that all one word or is it a capital
5 "H. "

6 THE WITNESS: Capital H.

7 THE COURT: Okay. Thank you. You may proceed, Ms.
8 Plomin.

9 MS. PLOMIN: Thank you.

10 **DANIEL VAN HOOK, WITNESS, SWORN**

11 **DIRECT EXAMINATION**

12 BY MS. PLOMIN:

13 Q Good afternoon, Mr. Vanhook.

14 A Hello.

15 Q Hello. Mr. Vanhook, do you know the gentleman who is
16 sitting here at defense counsel table to my right?

17 A Yes.

18 Q All right. And who is that?

19 A Decarus Thomas.

20 Q So you call him Decarus?

21 A Yes.

22 Q All right. And just for the record, I'm referring to the
23 gentleman sitting in the blue; is that right?

24 A Yes.

25 Q Okay. And when did you meet Decarus?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A I would say back in 1994, 1995.

2 Q At that time how old were you?

3 A '95 I graduated from high school, so I guess I was about
4 17.

5 Q The year you graduated from high school?

6 A Yeah.

7 Q And how old was Decarus when you met him?

8 A Let's see. I'm 38, so he's probably, what, about five
9 years above me, so 18, 19, 21 -- about 22, 23.

10 Q How did you meet him?

11 A He is my best friend's sister's boyfriend.

12 Q He was back then?

13 A Yes.

14 Q And who is your best friend?

15 A James Newman.

16 Q And so you met Decarus through Mr. Newman; is that right?

17 A Yes.

18 Q Okay. Now did you become friends with Decarus?

19 A Yes.

20 Q And how close of friends were you back then?

21 A Well, back then we were pretty good friends. We hung out.
22 Me, him, James, a few other of other buddies. Like our
23 families are really good friends, yeah.

24 Q So how often would you see him?

25 A Back then?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q Yes.

2 A Well, I would say maybe once a week, maybe twice a week.

3 We didn't go to their house a lot because he used to stay
4 across the street from James and his family.

5 And Michelle, she was his girlfriend at the time,
6 they stayed directly across. I was over at James house a lot,
7 so, yeah.

8 Q And are you still good friends with Decarus today?

9 A Yes.

10 Q And as of June of last year, had your relationship with
11 Decarus changed from the time you met him to June of 2015?

12 A No. I wouldn't say.

13 Q And have you ever been to the house on Cochise where
14 Decarus lived?

15 A Yes.

16 Q How frequently did you go to that house?

17 A About once a week, sometimes twice a week, once a week.

18 Q What did you do when you went over to Decarus's house?

19 A He cooked, so we ate, drank, had beers, talk.

20 Q And who else was Decarus -- or did you spend time with at
21 Decarus's house? Who else did you spend him with at Decarus's
22 house?

23 A The other people that lived there, the other roommates;
24 Stefan, Billy. Oh, who is the other guy? Ricky. And
25 Stefan's girlfriend. Those are the other people that lived in

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 the house.

2 Q And by "Stefan," do you know Stefan's last name?

3 A I think it's Verdugo or Verzugo, something like that.

4 Q And do you know his girlfriend's name?

5 A I know her first name, Janine.

6 Q And you said "Ricky." Do you know Ricky's last name?

7 A No.

8 Q And do you know Billy's last name?

9 A No.

10 Q And did you ever meet a man by the name -- that went by
11 "Ibrahim"?

12 A Yes.

13 Q Where did you meet him?

14 A At Decarus's house.

15 Q And how frequently would you see Ibrahim at Decarus's
16 house?

17 A He wasn't there often. I would see him like, maybe, I
18 spent like maybe once a week over there, so maybe two to three
19 times of the month maybe.

20 Q So two to three times a month?

21 A Yeah.

22 Q And when you would hang out and drink beers at Decarus's
23 house, would Ibrahim be there?

24 A When we're drinking beer? No. Not at the time, no.

25 Q Did Decarus drink in front of Ibrahim as far as you knew?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A No.

2 Q So I want to focus on the period of November 2014 through
3 March of 2015 when Decarus --

4 Are you aware that Decarus ultimately moved out of
5 the house on Cochise?

6 A Yes.

7 Q Do you know when that was?

8 A I don't know the exact date, no, but I would say maybe it
9 was the summer of 2015 or somewhere around there. I don't
10 know the exact date though.

11 Q Well, let's talk about from November of 2014 to when
12 Decarus moved out of the house on Cochise.

13 A Uh-huh.

14 Q Were you still going there -- how often were you going
15 over to the Cochise house during that time period?

16 A When Decarus had moved out?

17 Q No. Before he moved out?

18 A Oh, before he moved out? About once, twice a week.

19 Q Okay. And you were doing the same thing that you said you
20 were doing, drinking beers over there?

21 A Yeah. He would cook, so we would eat. He would also cut
22 my hair. He's a barber, so he would cut my hair. Like Friday
23 I would get off after work, go eat, get my hair cut, maybe
24 have a beer, talk.

25 Q And during that time period did you notice any changes in

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Decarus from how you had known him before?

2 A No.

3 Q And are you Muslim?

4 A No.

5 Q What religion are you?

6 A I'm Christian.

7 Q And how did Decarus treat you as a Christian person?

8 A Good. The same. Like he treated me when I first met him.
9 I don't think it really mattered my religion. He didn't treat
10 me bad or anything. He knows that I'm Christian and my family
11 is Christian.

12 Q And you say "your family." Is your mom here watching
13 today?

14 A Yes.

15 Q All right. And how long has Decarus known her?

16 A Same amount of time, so 1994/'95. Our families know each
17 other just like James family. All of our moms know each
18 other. We know his siblings. He knows my siblings. Kind of
19 like that. We moved out here from California. They are from
20 Philadelphia. So our families kind of became family, you
21 know, because we're all out of state.

22 Q And how did Decarus treat your mom as a Christian?

23 A Very respectful. Good.

24 Q You're smiling. Why?

25 A Because he treats my mother with the utmost respect, you

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 know, kind of calls her Miss Rhonda. And her first name is
2 Rhonda, so he treated her very respectful.

3 Q Up until when he was arrested, did he still treat her
4 respectfully up to June of 2015?

5 A Yes.

6 Q Did you ever hear Decarus use the term "kafir"?

7 A Yes.

8 Q And in what context did you hear him use that term?

9 A To me, like in a joking context.

10 Q All right. In a joking context.

11 Can you explain that a little more?

12 A Yeah. Like if we're talking about something, he would
13 say, oh, you don't understand, you kafir, oh, ha, ha, ha, and
14 start laughing. Like, man, be quiet, you know, you don't even
15 know what "kafir" means.

16 Q Did you ever feel threatened when Decarus called you a
17 kafir?

18 A No.

19 Q Now, I want to talk about your relationship with Stefan
20 Verdugo. How do you know Stefan Verdugo?

21 A Through Decarus. He was one of Decarus's movers.

22 Q Do you know when you met him?

23 A We've known Stefan for a long time, so I would say -- I
24 don't know when he met him, but I know that he has known him
25 for a very long time.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q When did you meet him?

2 A Oh, I met Stefan about ten years ago, maybe.

3 Q And did you become friends with Stefan Verdugo?

4 A Yes.

5 Q And you said that you and Stefan Verdugo would be at the
6 Cochise house together?

7 A Yes.

8 Q And during that time -- and I want to focus on from
9 November 2014 to when Decarus moved out of the Cochise house.

10 During that time were you ever with Stefan when
11 Decarus told you he was a part of ISIS?

12 A No.

13 Q Did Decarus ever tell you he was a part of ISIS?

14 A No.

15 Q Were you ever with Stefan when any kind of videos were
16 played depicting ISIS or execution-style videos?

17 A No.

18 Q Did you ever see any of those types of videos being played
19 at Decarus's house?

20 A No.

21 Q Did Decarus ever show you any of those types of videos?

22 A No.

23 Q Did you ever see Decarus pull a gun on Mr. Verdugo?

24 A No.

25 Q Did you ever see a gun at Decarus's house at all?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A No.

2 Q Now, you said you have been in the Cochise house at the
3 same time as a man named Ibrahim?

4 A Yes.

5 Q And during that time, did you have conversations with
6 Ibrahim and Decarus?

7 A Yes.

8 Q Did you ever hear anything during a conversation about --
9 with Ibrahim and Decarus about ISIS?

10 A No.

11 Q Did you ever hear anything about -- within those
12 conversations about a contest in Texas of drawing the Prophet
13 Muhammad?

14 A No.

15 Q And did you ever hear anything about any mention of an
16 attack in Paris, a Charlie Hebdo attack, between Ibrahim and
17 Decarus Thomas?

18 A No.

19 Q Do you own a gun?

20 A No.

21 Q Have you ever shot a gun?

22 A Have I ever shot a gun? Yes.

23 Q And how many times have you shot a gun? How many
24 occasions have you shot a gun?

25 A Maybe twice.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q Okay. And on either of those occasions did you go shoot
2 the gun or a gun with Decarus?

3 A Yes.

4 Q And who were you with when you went to go do that?

5 A It was me, Decarus, a friend of ours Sergio, Sergio's
6 brothers. We went to Sergio's parents' house. They have a
7 ranch. And his father and his mother was also there. They
8 cook dinner or made us lunch and they kind of have like a
9 shooting range and we went shooting, yes.

10 Q And when you went to Sergio's parents' house, did you --
11 were you planning on going shooting or did it just happen?

12 A It just happened.

13 Q And how long ago was that?

14 A It was so long ago, I would say six years ago, seven years
15 ago.

16 Q Now, moving to May of 2015, did there come a time when you
17 learned that Ibrahim -- Ibrahim had gone to attack a contest
18 in Texas?

19 A I found out about that after it happened.

20 Q And when you found out about that --

21 I want to talk about the period after you found out
22 about that. How did you find out about it?

23 A Through Decarus.

24 Q Okay. And after that -- well, let me back up.

25 Do you know when Stefan Verdugo moved out of the

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Cochise house for the last time?

2 A I don't recall the exact date, but I would say it was
3 summer of 2015, somewhere around that time.

4 Q Okay. And do you know where he moved after he moved out?

5 A I don't think he really had a steady place to go, so I
6 don't know exactly where he moved. I know that he was staying
7 like with friends, another good friends of his. I forgot the
8 guy's name. And I know he was staying like at a Budget
9 Suites, so kind of place to place.

10 Q So after he moved out of Decarus's house, did Verdugo --
11 was Verdugo essentially homeless?

12 A Yes.

13 Q And did you talk to Verdugo in the time after he moved out
14 of Decarus's house?

15 A Yes.

16 Q And during that time how was Verdugo doing financially?

17 A He was struggling. Wasn't doing so well. He was having a
18 hard time. He was from home to home, so I would say he was
19 struggling, low on money.

20 Q All right. And at some point did you have a conversation
21 with Verdugo about moving into Decarus's -- back in with
22 Decarus?

23 A Yes.

24 Q And did Verdugo express to you that he wanted to move back
25 in with Decarus?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 MR. KOEHLER: Objection. Hearsay.

2 THE COURT: Sustained.

3 MS. PLOMIN: It's offered for impeachment, Your
4 Honor.

5 THE COURT: Sustained.

6 BY MS. PLOMIN:

7 Q And did you -- after you spoke to Verdugo, did you make a
8 phone call to Decarus asking if Verdugo could move back in
9 with him?

10 MR. KOEHLER: Objection. Leading.

11 THE COURT: Overruled. You may answer "yes" or "no."

12 THE WITNESS: Yes.

13 BY MS. PLOMIN:

14 Q And did Decarus, after that, allow Verdugo to move back in
15 with him?

16 A No.

17 Q Did you testify that Verdugo moved out of the Cochise
18 house in December 2015?

19 MR. KOEHLER: Objection.

20 THE COURT: I don't think he said at all when he
21 moved out, only that he remembered that he did.

22 BY MS. PLOMIN:

23 Q Okay. Do you have a clear memory of when Verdugo moved
24 out of the house on Cochise?

25 A No.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 MS. PLOMIN: I don't have any more questions.

2 Thank you.

3 THE COURT: Mr. Koehler.

4 **CROSS EXAMINATION**

5 BY MR. KOEHLER:

6 Q Good afternoon, sir.

7 A Good afternoon.

8 Q You haven't met me before; is that correct?

9 A That's correct.

10 Q Nor have you met Agent Whitson?

11 A I have not met him before, no.

12 Q Nor Ms. Brook; is that correct?

13 A That's correct.

14 Q Now, you did submit to an interview with a couple of FBI
15 agents on two different occasions in connection with this
16 case; is that right?

17 A Yes.

18 Q One in May of 2015 and another in January of 2016; is that
19 right?

20 A That sounds about right, yes.

21 Q And am I right from your interviews that you didn't think
22 that Elton Simpson was capable of the kind of violence that we
23 saw in the attack in May of 2015?

24 MS. PLOMIN: Objection. Hearsay.

25 THE WITNESS: That's not correct.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 THE COURT: He was asked whether he thought Elton
2 Simpson was capable and he said "that's not correct," so the
3 objection is overruled. The answer will stand.

4 MR. KOEHLER: If I can have one moment.

5 BY MR. KOEHLER:

6 Q Did you say to agents on May 17 of 2015 that you were
7 surprised that Simpson had engaged in such an attack because
8 you had always seen Simpson as a quiet and sensible
9 individual?

10 A I said I was surprised, yes, but I did not say that it was
11 unbelievable or what you stated earlier. I said that it was
12 surprising, yes.

13 Q Did you also say that you never overheard Simpson talking
14 about guns?

15 A Yes.

16 Q Did you also say that you never heard any indications from
17 Mr. Thomas, as you knew him, that Simpson was planning or
18 capable of this type of attack?

19 A Yes.

20 Q You also stated that Thomas did not own any guns; is that
21 right?

22 A From what I'm aware --

23 MS. PLOMIN: Objection. Hearsay.

24 THE COURT: Sustained. Form of the question, Mr.
25 Koehler.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 BY MR. KOEHLER:

2 Q To your knowledge, at that time Decarus Thomas as you knew
3 him did not own any guns; is that correct?

4 A That's correct.

5 Q You went over to that house every other weekend roughly;
6 is that correct?

7 A Yes.

8 Q And at the time that you went over there, you had beers
9 with him?

10 A Yes.

11 Q Did Mr. Simpson or Mr. Soofi ever stay at the house during
12 the time that you were having beers with him?

13 A I don't know Mr. Soofi, but I know a Mr. Simpson, and, no,
14 he did not.

15 Q So you don't know Mr. Soofi. You never ever saw him at
16 the house?

17 A I saw him coming and going once. But other than that, I
18 did not know at the time that that was Mr. Soofi. I only
19 found out the guy's name "Mr. Soofi" on the news. So at that
20 time, no, I did not know that that was Mr. Soofi.

21 Q You mentioned on direct somebody named "Billy"; is that
22 right?

23 A Yes.

24 Q Was there more than one Billy at the house?

25 A Yes.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q How did the people at that house differentiate between the
2 two Billies?

3 A One Billy is black and the other Billy is white.

4 Q Okay. So did they have nicknames?

5 A Yes.

6 Q Who gave them those nicknames, if you know?

7 A I'm not sure who gave them the nicknames, but they did
8 have nicknames.

9 Q And did Decarus Thomas use those nicknames with them?

10 A Yes.

11 Q What were their nicknames?

12 A White Billy and Black Billy.

13 Q Did you spend any time at the 21st Drive apartment after
14 Decarus Thomas moved out of the house on Cochise?

15 A Yes.

16 Q How often would you visit there?

17 A Oh, not as often, but I would say maybe once every two
18 weeks maybe.

19 Q And when you went there was Elton Simpson there?

20 A No.

21 MR. KOEHLER: If I can have a moment?

22 No further questions.

23 THE COURT: Any questions on redirect, Ms. Plomin?

24 MS. PLOMIN: Just one moment, Your Honor.

25 No, Your Honor. Thank you.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 THE COURT: May this witness be excused and released
2 from his subpoena?

3 MS. PLOMIN: Yes.

4 THE COURT: Thank you. You may be excused.

5 THE WITNESS: I have a question.

6 After you are a witness, because I've never been
7 through anything like this before, are you allowed to stay and
8 hear the rest of the trial?

9 THE COURT: Yes.

10 THE WITNESS: Okay.

11 All right. That's it. Thank you.

12 MR. MAYNARD: Defense will call Dunston Simpson, Jr.

13 (Witness duly sworn.)

14 THE CLERK: Please state your name for the record,
15 spelling your first and last name.

16 THE WITNESS: Dunston. D-U-N-S-T-O-N. Reginald.
17 R-E-G-I-N-A-L-D. Simpson. S-I-M-P-S-O-N. Second, not a,
18 Junior.

19 THE COURT: You may proceed Mr. Maynard.

20 MR. MAYNARD: Thank you, Your Honor.

21 **DUNSTON REGINALD SIMPSON, II, WITNESS, SWORN**

22 **DIRECT EXAMINATION**

23 BY MR. MAYNARD:

24 Q Good afternoon, Mr. Simpson.

25 A Good afternoon.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q Would you introduce yourself to the jury. What is your
2 name?

3 A My name is Dunston R. Simpson.

4 Q And do you live in the Phoenix metropolitan area?

5 A Yes, specifically Glendale, Arizona.

6 Q And how long have you lived here?

7 A Approximately, 20 years.

8 Q And are you employed here in Phoenix?

9 A I am.

10 Q Okay. Are you the brother --

11 Well, strike that.

12 Who was your brother?

13 A Elton Francis Simpson.

14 Q And the year prior to your brother's death, how often
15 would you see him?

16 A A few times. You know, toward the latter part, often.

17 Q And what do you mean "towards the latter part, often"?

18 Can you explain that for us?

19 A Probably the last three or four months of his life, I
20 would spend a lot of time with him traveling to San Diego. He
21 would come to the home often to spend time with my children,
22 yeah.

23 Q Okay. You're married?

24 A I am. Fourteen years.

25 Q And how many kids do you have?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Two.

2 Q And your brother was a Muslim, correct?

3 A Correct.

4 Q And do you recall when he converted?

5 A Sometime in his collegiate time, so I don't know. He was

6 32. Fifteen years --

7 Q Sometime after he started college?

8 A Freshman year college, second year of college.

9 Q Are you a Muslim?

10 A No, I'm not.

11 Q Okay. Now, you said your brother and you spent more time.

12 Was that unusual the last couple of months before his death?

13 A It was. It was. I mean, I was not attracted by, you
14 know, always getting -- always talking about, you know, the
15 religion and things like that because I'm just not that
16 person. I tend to focus on other interests other than
17 religion.

18 So there was dissention for quite some time because,
19 you know, there was no interest in that space. But again,
20 this last four or five months of his life, he spent a lot of
21 time with me.

22 Q Okay. Did he seem to spend a lot of time with other
23 members of your family also?

24 A Indeed, yes.

25 Q And that was different than he had been the prior several

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 years?

2 A Correct.

3 Q Okay. Now, did you know an individual by the name of
4 Nadir Soofi?

5 A No.

6 Q Did you know Ali Soofi?

7 A No.

8 Q Had you been to your brother's apartment?

9 A No.

10 Q In the -- in the year before he died?

11 A No.

12 Q All right. Did -- prior to May 3rd of 2015, had you ever
13 heard of a Muhammad Drawing Contest prior to your brother's
14 death?

15 A Are you specifically stating Garland, Texas, Muhammad
16 Drawing?

17 Q Yes. Yes. Yes, sir.

18 A No.

19 Q Now, were you aware that your brother was going out of
20 state in May of 2015?

21 A No.

22 Q Okay. How did you learn that your brother was out of
23 Arizona on May 3rd of 2015?

24 A I received a phone call from a reporter. I don't know
25 exactly who she was, but she claimed to be a reporter stating

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 that my brother was potentially involved in an incident in the
2 State of Texas and was I aware of it. And I said absolutely
3 not.

4 Q And what did you do after you received that phone call?

5 A I immediately called anyone who would figure out whether
6 or not Elton was in the state, out of state, what have you. I
7 contacted Saleem.

8 Q Did you refer to your brother as "Elton" or did you call
9 him "Ibrahim"?

10 A I don't recall.

11 Q Do you remember approximately what time you received that
12 phone call on the evening of May 3rd?

13 A Sure. It was sometime around 9:30, ten o'clock.

14 Q Sort of late in the evening?

15 A Correct.

16 Q And did you eventually get in contact with anybody that
17 you knew that knew Elton?

18 A Yes.

19 Q And who was that individual?

20 A It was Saleem.

21 Q I'm sorry?

22 A Saleem.

23 Q Do you know what Saleem's last name is?

24 A I do not.

25 Q Did you -- can you tell us what you asked Saleem to do if

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 anything?

2 A Sure. I asked Saleem if he could go by Elton's apartment,
3 because I had no idea where he lived. And he said sure,
4 because I guess Saleem was at the mosque and the mosque was
5 right down the street from Elton's residence.

6 And so he said yes, I have no problem with going to
7 his residence to see if he's there or not.

8 Q And what do you understand that happened next?

9 A So he goes on to Elton's apartment, realizes that the
10 apartment was dark, realized that no one was in there after
11 knocking on the door.

12 He also noticed two possible agents who were there at
13 Elton's residence. He immediately turned around, got in his
14 car. Mind you, I'm on the phone with him this entire time.

15 He gets in his car and says, listen, I think I might
16 be getting pulled over. I need to call my wife. And that was
17 the last time I heard from him.

18 Q All right. When did you next here anything about your
19 brother?

20 A It was all media-related.

21 Q So from that point on after you had spoken to Saleem, the
22 rest you heard -- or at least the next reports you heard on
23 the media?

24 A Correct.

25 MR. MAYNARD: I don't have any further questions,

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Your Honor.

2 THE COURT: Mr. Koehler, you may cross-examine.

3 **CROSS EXAMINATION**

4 BY MR. KOEHLER:

5 Q Good afternoon, Mr. Simpson.

6 A Good afternoon.

7 Q You have not met with me or anybody at counsel table over
8 here before today; is that correct?

9 A No, sir.

10 Q You have spoken to the FBI after what happened in Garland,
11 Texas, about your brother?

12 A Yes, sir.

13 Q So after your brother realized that he couldn't convert
14 you, he still continued to spend time with you; is that
15 correct?

16 A Correct.

17 Q How frequently did he try to convert you to Islam?

18 A He never tried to convert me. Let's just make that a
19 record. He never tried to convert me. He tried to just share
20 the religion with me. He never asked me to convert.

21 Q Did you make it clear to him that you were not interested
22 in any way?

23 A Yeah. It was due to body language and the fact of a lack
24 of engagement through communication.

25 Q Okay. Can you explain the "body language" part?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Well, you know, just kind of like just not interested. If
2 you're not interested in something, you just kind of shrug it
3 off or you maybe move to another room while he's talking to
4 the kids or having fun with the kids. You know, you just kind
5 of dissociate yourself with the situation.

6 Q But despite that, he continued to spend time with you; is
7 that correct?

8 A Correct.

9 Q Was that true with the rest of your family?

10 A I believe so.

11 Q Were you surprised at what happened in Garland with your
12 brother?

13 A Of course, I was.

14 Q Can you explain that a little bit. Why?

15 A Because my brother is not a violent person. He's a very
16 peaceful person. He was a happy person. He -- I just would
17 never think that it would get to that point.

18 Q Am I correct that you did not think that using weapons was
19 something that your brother was into?

20 A Correct.

21 Q Am I also correct your brother didn't have a lot of money
22 to spare?

23 A Not that I was aware of, no.

24 MR. KOEHLER: I have no further questions.

25 THE COURT: Mr. Maynard, anything else?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 MR. MAYNARD: No.

2 THE COURT: May Mr. Simpson be excused and released
3 from his subpoena? Is there any objection?

4 MR. KOEHLER: No, Your Honor.

5 THE COURT: Thank you very much, Mr. Simpson. You
6 may step down and you are excused as a witness.

7 Do you have someone else you want to call today?

8 MR. MAYNARD: Yes. Dunston Simpson, Sr.

9 (Witness duly sworn)

10 THE CLERK: Please state your name for the record.

11 THE WITNESS: Dunston Francis Simpson.

12 THE COURT: You may proceed, Mr. Maynard.

13 MR. MAYNARD: Thank you, Your Honor.

14 **DUNSTON FRANCIS SIMPSON, SR., WITNESS, SWORN**

15 **DIRECT EXAMINATION**

16 BY MR. MAYNARD:

17 Q Good afternoon, Mr. Simpson.

18 Could you introduce yourself to the jury, please.

19 A Again, I am Dunston Simpson, Elton Simpson's dad.

20 Q And do you live in the Phoenix metropolitan area?

21 A I do.

22 Q Okay. And without telling me who your employer is, how
23 are you employed?

24 A I do accounting work.

25 Q Okay. Now, you are aware that at some point your son

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Elton converted to Islam; is that correct?

2 A I am.

3 Q Did you ever convert to Islam?

4 A I did not.

5 Q Now, had you ever met Decarus Thomas, also known as Abdul
6 Malik Abdul Kareem?

7 A I did.

8 Q Do you recognize him in this courtroom today?

9 A I do.

10 Q Okay. On how many occasions did you meet Mr. Abdul
11 Kareem?

12 A Once.

13 Q When was that?

14 A At my home to clean the carpets. He had a carpet cleaning
15 service.

16 Q Okay. And I want to direct your attention to May 3rd of
17 2015. Did you know that Elton was going out of town that
18 weekend?

19 A I did not.

20 Q And how is it that you learned that Elton had gone out of
21 town?

22 A I was visited earlier that morning, May 3rd, by the
23 defendant; came to my house.

24 Q Okay. When you say early the morning of May 3rd, was it
25 either late at night on May 3rd or early the morning of May

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 4th?

2 A I'm not really sure. I'm thinking it was 1:00 or
3 2:00 a.m.

4 Q Okay. If I were to tell you that the incident in Garland,
5 Texas, occurred about seven or eight o'clock Texas time -- or
6 six o'clock Texas time on May 3rd, does that help you refresh
7 your recollection as to when?

8 A No, it does not, because my wife and I were asleep.

9 Q Okay.

10 A We got a knock at the door and I went to the door and --

11 Q Tell us what happened that evening.

12 A Well, again, we were asleep. There was a knock at the
13 door. I came to the door and it was the defendant. And he
14 indicated that he had heard something disturbing and that
15 maybe we should turn the television on and take a look at what
16 might be broadcast as the news, to take a look because it's
17 possible that my son had gone to Garland, Texas, and something
18 terrible happened.

19 Q Was there anybody that was with Mr. Abdul Kareem?

20 A There were two other gentlemen. I'm not real familiar
21 with them, so I can't give you their names, but there were two
22 other gentlemen. I just don't have their names.

23 Q All right. Did the three of them walk into your house?
24 Did you invite them in that evening?

25 A Absolutely.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q Okay. And it was very late at night, whatever time it
2 was?

3 A Absolutely.

4 Q And did you turn on the television?

5 A Yes, I did.

6 Q How is it that you were able to get news that late at
7 night? Did you have a DVR?

8 A It was broadcasting. I surfed the channels. I found some
9 news and watched it and because it was a fantastic story that
10 was there.

11 Q Did you realize from watching that news that your son was
12 involved in this?

13 A I did not.

14 Q Did anyone of the three indicate that they recognized
15 anything from the newscast?

16 A Not actually. There was a conversation that the
17 automobile --

18 MR. KOEHLER: Your Honor, I'm going to object on
19 hearsay grounds at this point.

20 THE COURT: Overruled. You may complete your answer.

21 THE WITNESS: There was some talk that the automobile
22 looked like the automobile that belonged to one of the guys.

23 BY MR. MAYNARD:

24 Q Okay. Did you know Nadir Soofi?

25 A I had never met him.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q Had you ever been to your son's apartment?

2 A No.

3 Q Okay. Now, when did you finally learn that your son had
4 died in Texas?

5 A I was in disbelief, so I still went to work. I had to be
6 at work at 4:00 a.m. And I get a call -- I can't even
7 remember who called me at work and told me that, yes, it was
8 him.

9 Q Okay. Now, before your son passed away, did your son own
10 a car?

11 A He did own a car.

12 Q And what kind of car did your son own?

13 A It was an Infinity 300 or something like that.

14 Q At some point in time did somebody give you the car
15 registration to that car?

16 A Yes, they did.

17 Q Who was that individual?

18 A The gentleman's name was Saabir. I don't know his last
19 name but he gave me the title.

20 Q Did he tell you how he came to have the title?

21 A He did not. He just says I think you should have it and
22 he gave it to me.

23 MR. MAYNARD: I have no further questions, Your
24 Honor.

25 THE COURT: You may proceed, Mr. Koehler.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

CROSS EXAMINATION

2 BY MR. KOEHLER:

3 Q Thank you, Your Honor.

4 And good afternoon, Mr. Simpson.

5 A Hello, sir.

6 Q You've not met me or the two people at the counsel table
7 with me before today; is that correct?8 A No. I'm a little older. I don't remember quite well,
9 but, no, I haven't met you.

10 Q A couple quick questions for you.

11 First of all, this person Saabir that came to your
12 house?

13 A Yeah.

14 Q Did you know him?

15 A Yeah, I did.

16 Q Okay. And when he brought you the car -- title to the
17 car, did he bring you a letter or anything?

18 A He did not.

19 Q Just the title itself?

20 A Just the title itself.

21 Q Now, I think you were already asked, but I want to make
22 clear. You're not Muslim; is that right?

23 A No. I am not.

24 Q And your wife is not Muslim?

25 A No. She is not.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q At the time that your son Elton converted to Islam, did he
2 attempt to share Islam with you and your wife?

3 A He did.

4 Q And what was your response to that?

5 A I have a little difficulty with religion, so my response
6 was that's really good, son, I'm glad you found something that
7 you could believe in.

8 Q Okay. But you, yourself, were not interested; is that
9 correct?

10 A No. I wasn't.

11 Q You didn't convert?

12 A I did not.

13 Q Your wife didn't convert either?

14 A She did not.

15 Q Yet your son still came over to visit you; is that
16 correct?

17 A Not as often as we would like, but once in a while, he did
18 come over.

19 Q Was he still loving toward you?

20 A Yes.

21 Q Was he still loving toward your wife?

22 A Yes, he was.

23 Q Would you see him hug his mother?

24 A Yes, I did.

25 Q Did he tell her that he loved her?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Well, I don't know.

2 Q Okay. But you already said that he was loving toward her.

3 A Yes.

4 Q You already stated on direct that you were in disbelief
5 about the attack happening in Garland?

6 A Correct.

7 Q Why were you in disbelief about it?

8 A That wasn't my son's nature. He was caring, loving,
9 gentle.

10 Q Did you ever see him with a firearm?

11 A Never.

12 Q Had you ever heard of him ever having a firearm or using
13 one?

14 A Never. He told me that they weren't allowed.

15 Q Were you ever aware of your son having any large sums of
16 money?

17 A No. Please.

18 Q Okay. We got a little bit of what sounded like a chuckle
19 out of you in response to that?

20 A Yeah.

21 Q Explain that, please.

22 A Well, he just never had large sums of money. When I think
23 of large sums of money, I think of you guys.

24 Q Fair enough.

25 So my question here is: Did he seem to you like

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 somebody who had the kind of money that could spend, say, 500
2 or \$700 on a firearm?

3 A No.

4 MR. KOEHLER: I have no further questions. Thank
5 you.

6 THE COURT: Mr. Maynard, do you have any questions on
7 redirect?

8 MR. MAYNARD: I do not.

9 THE COURT: May this witness be excused and released
10 from his subpoena?

11 MR. MAYNARD: Yes.

12 THE COURT: Is there any objection?

13 MR. KOEHLER: No objection.

14 THE COURT: Thank you very much, Mr. Simpson. You
15 may step down and you are excused as a witness.

16 MR. MAYNARD: Defense calls Stuart Sampson.

17 (Witness duly sworn)

18 THE CLERK: Please state your name for the record,
19 spelling your first and last name.

20 THE WITNESS: Stuart Sampson. S-T-U-A-R-T
21 S-A-M-P-S-O-N.

22 THE COURT: You may proceed, Mr. Maynard.

23 **STUART SAMPSON, WITNESS, SWORN**

24 **DIRECT EXAMINATION**

25 BY MR. MAYNARD:

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q Good afternoon, Mr. Sampson.

2 A Good afternoon.

3 Q Could you introduce yourself to the jury.

4 A My name is Stuart Sampson. I go by Saleem as well.

5 Q Mr. Sampson, you are a Muslim; is that correct?

6 A I am.

7 Q And when is it that you converted to Islam?

8 A Twenty-one years ago.

9 Q Okay. You are also -- strike that.

10 You know the defendant in this case Abdul Kareem,
11 correct?

12 A I do.

13 Q And are you related to him?

14 A I am.

15 Q And how are you related?

16 A He's my uncle.

17 Q Were you born in Philadelphia?

18 A I am.

19 Q And your mother was his sister; is that correct?

20 A Correct.

21 Q Now, are you married?

22 A I am.

23 Q And how many children, if any, do you have?

24 A Three.

25 Q And how long have you been married?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Six years. I been with my wife eleven years.

2 Q Okay. And without telling me who your employer is, how is
3 it that you are employed?

4 A How is it that I'm employed?

5 THE COURT: What do you do for a living?

6 MR. MAYNARD: What do you do for a living?

7 THE WITNESS: Floors. I do floors.

8 BY MR. MAYNARD:

9 Q Okay. Now, you also have a brother that lives out here in
10 Phoenix at this time, correct?

11 A I do.

12 Q And what is his name, please.

13 A Anthony Sampson. And he goes by Hakeem as well.

14 Q Did you know an individual by the name of Elton Simpson?

15 A I do.

16 Q And how did you know him?

17 A We pray together.

18 Q When did you first meet him?

19 A I believe 2012 or 2013.

20 Q And when you say you pray together, did you go to the same
21 mosque?

22 A We do -- well, it's a lot of mosques in the same area, so
23 people go wherever they at at the time. And basically, we
24 would meet at the masjid. He plays basketball. Everything.

25 Q Okay. Did you play basketball with him at times?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A I did.

2 Q Did he ever work for you at any time?

3 A He did.

4 Q And how long did he work for you?

5 A A couple of months.

6 Q Okay. Now, did you know Nadir Soofi?

7 A I do.

8 Q And how did you know him?

9 A Prayer.

10 Q Same way as you knew Elton or Ibrahim?

11 A Yep.

12 Q I'm going to direct your attention to the day of May 1st
13 of 2015. Did you pick your brother up at the airport that
14 day?

15 A I did.

16 Q He was coming in from Philadelphia?

17 A Yep.

18 Q Was he coming back here to live?

19 A He's coming -- yeah. To live in Arizona.

20 Q Okay. Who was he going to live with?

21 A My uncle.

22 Q And who was he going to be employed by?

23 A My uncle and me. Well, he can work with him and he can
24 work with me.

25 Q Okay. And, approximately, what time did you pick your

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 brother up at the airport that day?

2 A It was in the afternoon sometime. I don't remember the
3 exact time.

4 Q Do you recall where you went after you picked your brother
5 up?

6 A To my house.

7 Q Okay. At some point did you go to the mosque that day?

8 A It had to be later in the afternoon.

9 Q Okay. Did you see Elton Simpson or Ibrahim at the mosque
10 that day?

11 A That was a Friday. Yeah. We did see him. You have to go
12 to the mosque on Friday. It's Jumu'ah. It's always
13 obligatory for Muslim men to attend prayer on Friday. So we
14 did see Elton and seen Nadir. Nadir was sitting behind me and
15 Elton was sitting to the right of me.

16 Q Was that the last time that you saw Elton Simpson?

17 A The last time.

18 Q Was that the last time you had seen Nadir Soofi?

19 A Yep.

20 Q Okay. After the Jumu'ah prayers that day, can you tell us
21 what happened, if anything?

22 A I know my uncle, he arranged to have a barbecue at his
23 house and he offered everybody to come over to his house for a
24 barbecue. Other than that, I didn't -- I'm usually home or
25 I'm working, so I don't know.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 My brother, he was with my uncle, because -- in
2 Islam, if I'm married and I have a wife in my house, then
3 another male is not allowed to live in my household. So he
4 was with my uncle.

5 Q Okay. So did your brother leave that day to go to your
6 uncle's house from the mosque?

7 A He did.

8 Q Did you participate in that -- did you go to the barbecue
9 that your uncle had talked about?

10 A I didn't.

11 Q Okay. I'm going to direct your attention now to May 3rd
12 of 2015. At some point did you get a call from anyone
13 concerning Ibrahim?

14 A I did.

15 Q And who was that call from?

16 A Ibrahim's brother Dunston.

17 Q Had you met him before you received that call?

18 A Personally, no.

19 Q Okay. And do you remember approximately what time at
20 night it was -- or what time of day it was that you --

21 A It was at night time. Because you share prayers the last
22 prayer of the day. And what the events that took place is I
23 got a phone call because I was praying. I didn't answer the
24 phone. And then I got a text message. After that I got the
25 text message. That's when I talked to him.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q Okay. And so you got the text message from Dunston and
2 you returned his call?

3 A I did.

4 Q And what did he ask you, if anything, to do?

5 A Well, he told me that he had some communications with some
6 kind of reporters or something like that and reference to
7 Ibrahim, that he did something over in Texas or something like
8 that.

9 And I was on the phone with him. And I told him:
10 What do you mean Texas?

11 And I told him this is unusual for you not to talk to
12 Ibrahim with something like this to take place for a reporter
13 to call you. I can go check on him because the masjid is on
14 23rd Avenue and Ibrahim and them live on 19th Avenue.

15 So I left the masjid and I went to knock on his door.
16 As soon as I knocked on his door, his door is facing, I
17 believe, south. And to the right of me I see two SUVs parked
18 directly looking at his apartment on the other side of the
19 wall.

20 So as I'm leaving the apartment complex, I see the --
21 a car come around this way. I'm driving here. They stopped
22 right here. So I come out of the complex and I'm headed to
23 the masjid.

24 I was still on the phone with his brother. I told
25 him I'm going to let you go because somebody is following me.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 I called my wife and I told my wife to meet me at the masjid
2 because somebody is following me and I don't have a clue
3 what's going on.

4 A police car came out of Chase Bank or Bank of
5 America and got in front of them and they turned on their
6 lights. And so I proceeded to the masjid. I made a left.
7 They turned on the lights and I pulled over in the masjid.

8 And that's when they drew their guns and everything
9 and made me get out of the car and whatever and just basically
10 put me on my knees and everything like that and started asking
11 me questions.

12 And they asked me what I'm in Arizona for and all
13 this other stuff. I told him: What are you in Arizona for?
14 I mean, I came here because I live here.

15 Q And what happened next after they stopped you?

16 A After about -- they got my identification. My wife pulled
17 up on this side. They went and got her identification and
18 they asked her some questions.

19 And then she had to go back around the corner. They
20 left me on the car with the handcuffs. And then after that
21 they let me go about 25, 30 minutes.

22 When I get back to my house I start calling around to
23 tell people what's going on. The first people I contacted, I
24 tried to contact my brother, but nobody answered the phone.
25 So I contacted my uncle and I told him: Did you hear anything

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 that's going on with Ibrahim and them because his brother
2 called me and the cops and the FBI already grabbed me and
3 everything. He said no, he didn't hear nothing about that.

4 Q Okay. Did you do anything else after that evening, after
5 you had talked to your uncle?

6 A I was calling multiple people to let them know what's
7 going on.

8 Q And when you say you were letting them know what was going
9 on, you were telling them about the call you had gotten from
10 Dunston and having been stopped by the police?

11 A Exactly.

12 Q Okay. Now, when did you learn that Ibrahim had been
13 killed in Texas?

14 A When did I learn?

15 Q Yes.

16 A It had to be that night.

17 Q Did you see it from the news or did you hear it from
18 somebody or --

19 A It was on the -- it was everywhere. It was all over the
20 place.

21 Q Okay. Had you ever heard of the Muhammad Drawing Contest
22 prior to learning that Ibrahim had been killed in Garland,
23 Texas?

24 A No.

25 Q Had there ever been any discussion in the Muslim Community

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 that you participate in in this Muhammad Drawing Contest in
2 Garland, Texas?

3 A No. Nobody at the masjid talk about no drawings.

4 Q And you've used the term "masjid" a few times. Is that
5 what --

6 A "Masjid" is another word for "mosque."

7 MR. MAYNARD: Mosque. Okay.

8 I don't have any further questions.

9 THE COURT: Mr. Koehler?

10 **CROSS EXAMINATION**

11 BY MR. KOEHLER:

12 Q Good afternoon, Mr. Sampson.

13 A Good afternoon.

14 Q Before I ask you other questions about the case, you
15 haven't met me before; is that correct?

16 A No.

17 Q And you haven't met the two people seated at counsel table
18 with me?

19 A No. I seen them before. I didn't know them. I never met
20 them.

21 Q You have seen us here in the courthouse?

22 A I have.

23 Q Okay. You mentioned that Elton Simpson worked with you
24 for a couple of months?

25 A That's correct.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q Whereabouts was that?

2 A I can't recall. It was years ago.

3 Q Years ago. That's fine.

4 Did you ever see him with large sums of money?

5 A No.

6 Q Were you surprised about his involvement in this event in
7 Garland, Texas?

8 A Of course.

9 Q Why were you surprised?

10 A Because Ibrahim to me -- everybody knowed him is all he do
11 is smile, is quiet, and play basketball.

12 Q And was that attitude of his consistent all the way up
13 until May 3rd of 2015?

14 A It was.

15 Q What about Nadir Soofi?

16 A Same thing. Quiet.

17 MR. KOEHLER: Thank you. No further questions.

18 THE COURT: Any other questions?

19 MR. MAYNARD: No, ma'am.

20 THE COURT: May Mr. Sampson be excused and released
21 from his subpoena?

22 MR. MAYNARD: Yes.

23 THE COURT: Is there any objection?

24 MR. KOEHLER: No, Your Honor.

25 THE COURT: Thank you, Mr. Sampson. You may step

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 down, sir, and you are excused as a witness.

2 MR. MAYNARD: Defense calls Anthony Sampson.

3 (Witness duly sworn.)

4 THE CLERK: Please state your name for the record and
5 spell your last name.

6 THE WITNESS: Anthony Sampson. You said spell it?

7 THE CLERK: Spell your last name.

8 THE WITNESS: S-A-M-P-S-O-N.

9 THE COURT: You may proceed, Mr. Maynard.

10 MR. MAYNARD: Thank you, Your Honor.

11 **ANTHONY SAMPSON, WITNESS, SWORN**

12 **DIRECT EXAMINATION**

13 BY MR. MAYNARD:

14 Q Would you introduce yourself to the jury, please.

15 A Anthony Sampson.

16 Q Do you also go by the name Hakeem?

17 A Yes.

18 Q And you are a Muslim?

19 A Absolutely.

20 Q And when is it that you converted?

21 A I don't remember exactly.

22 Q Okay. You know the defendant in this case Mr. Abdul
23 Kareem?

24 A That's my uncle.

25 Q Where were you born?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Philadelphia.

2 Q And how long did you live in Philadelphia before you moved
3 to Phoenix?

4 A It was on and off.

5 Q Did you actually live in Phoenix at some time with your
6 grandmother?

7 A Yes.

8 Q And do you recall when that was?

9 A No.

10 Q Okay. Now, you moved back to Philadelphia sometime around
11 2012 or thereabouts?

12 A Yes.

13 Q Okay. And then you came back out here on May 1st of 2015?

14 A Yeah.

15 Q Is that right? You need to say "yes" or "no."

16 A Oh. Yes.

17 Q That's okay.

18 Do you recall who picked you up at the airport that
19 day?

20 A My brother.

21 Q And after your brother picked you up at the airport, what
22 did you two do?

23 A I think we went to the masjid. It's kind of blurry, but I
24 think we did go to the masjid.

25 Q And if I were to tell you that May 1st of 2015 was a

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Friday, does that help you recall what you would have done?

2 A I know I went to the masjid but --

3 Q You don't know whether you went there directly or --

4 A Yeah. I don't remember exactly.

5 Q Okay. Did you know Elton Simpson, also known as Ibrahim?

6 A I might have seen him one time before I left.

7 Q And when you say "before you left," you're talking about
8 when you left in 2012?

9 A Yes.

10 Q Okay. Did you see him again at the masjid on May 1st of
11 2015?

12 A Yes.

13 Q Was he praying there that day?

14 A Yes.

15 Q Okay. Did you know Nadir Soofi?

16 A No.

17 Q Okay. Do you know whether or not he was there that day?

18 A I think I seen him sitting next to Ibrahim.

19 Q After the service, the prayer service, was finished --

20 A Uh-huh.

21 Q -- on May 1st of 2015, what did you do next?

22 A Said "salaam walaikum," shook a bunch of people hand and
23 then left.

24 Q Did you leave with your uncle that day?

25 A No.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q Who do you think you left with?

2 A I left with my brother.

3 Q At some point -- when you were moving out here, were you
4 coming to live with your uncle or were you coming to live with
5 your brother?

6 A I was coming to live with my uncle.

7 Q Did you eventually go over to your uncle's house on
8 May 1st?

9 A Yes, I did.

10 Q What did you and your uncle do that afternoon after the
11 prayer service was over?

12 A Well, I was hungry. Went to the house and ate. And
13 that's it, basically.

14 Q Was there any discussions about your uncle having people
15 to come to his house for a barbecue?

16 A Yeah, but they didn't show up.

17 Q Did he buy meat and stuff that day?

18 A No. The food was already cooked. It wasn't like no big
19 barbecue. All we gonna have was a barbecue. It was left-over
20 food that he already cooked.

21 And he had a problem with Ibrahim, you know, so they
22 wasn't talking for a while. So he basically say, okay, come
23 over. I guess he was trying to solve the problem or whatever
24 and he never showed up.

25 Q Ibrahim never showed up?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Yeah.

2 Q Okay. Now, let me jump ahead or next to May 3rd of 2015.

3 A Uh-huh.

4 Q What were you doing in the evening of May 3rd, 2015?

5 A I think we did a little bit of work and then we went to
6 eat.

7 Q Okay. And when you say you did a little bit of work, were
8 you working with your uncle?

9 A I think we was moving, yes.

10 Q And do you recall where you and your uncle went to eat
11 that evening?

12 A Red Lobster.

13 Q And did you receive any phone calls or did your uncle
14 receive any phone calls that evening?

15 A Yeah. My uncle received a phone call.

16 Q And do you know who he received a phone call from?

17 A I think my brother.

18 Q Okay. Did you come to learn what the phone call was
19 about?

20 A I think he was told that he just went to go check to make
21 sure Ibrahim was all right because I think Ibrahim's brother
22 called my brother and --

23 My uncle was shocked. He was like -- I don't know
24 exactly the words that he saying to everybody but he said
25 Saleem just got pulled over and grabbed by the cops. And he

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 was like --

2 Q Prior to your uncle getting the phone call and you two are
3 sitting there eating at Red Lobster, what was your uncle's
4 disposition?

5 A How was he acting?

6 Q Yeah. Yeah. How was he acting?

7 A Yeah. He was happy. He's a happy person. Sit down and
8 laugh. Everybody arguing and stuff but he just sitting there
9 and laughing, eating because he was hungry because he been out
10 all day.

11 But after he got a phone call, he just like -- to the
12 point where he didn't want to eat no more.

13 Q In fact, did you guys finish eating or did you pack up the
14 food or what did you do?

15 A No. We packed up the food.

16 Q And then what did you do?

17 A We went back to his house.

18 Q To your uncle's house?

19 A Yes.

20 Q Did you go by Ibrahim's house that evening?

21 A I don't think we went by Ibrahim's house that evening.

22 Q Okay. Do you recall going and picking your uncle -- your
23 uncle picking anyone else up?

24 A I believe that we went back to the house and then we
25 went -- because he got the phone call, we went to Abdul

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Khabir. He asked Abdul Khabir because I guess he was worried
2 had he talked to Ibrahim. And Abdul Khabir was like no, I
3 haven't talked to Ibrahim.

4 Q And when you say "Abdul Khabir," is that Abdul Khabir
5 Hyman?

6 A Absolutely, yeah.

7 Q And is he related to you by marriage, do you know?

8 A I don't know him like that, to be honest with you.

9 Q Okay. And how do you know Abdul Khabir?

10 A Because I found out he was my cousin when I came out here.
11 But I don't know he is exactly related to me.

12 Q Do you also know of him as being referred to as "AK"?

13 A I guess that's his nickname or whatever.

14 Q Okay. Have you ever heard anybody called him "AK"?

15 A Oh, yeah, it's his nickname.

16 Q Okay. Now, that evening did Abdul Khabir come with you
17 and your uncle in your uncle's car?

18 A Yes.

19 Q And where did you three go?

20 A I guess he wanted to go see if Ibrahim was all right
21 because I guess he didn't know the situation that was going
22 on. So he was going to basically check on. Because when we
23 was riding there he basically said I hope everything is all
24 right.

25 Q Did you go to Ibrahim's apartment at that time?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Yes, we did.

2 Q And what was the -- what was it like at Ibrahim's
3 apartment?

4 A Well, it was a whole bunch of cop cars everywhere.

5 Q Did you guys get out of the car?

6 A No.

7 Q Did your uncle and AK get out of the car?

8 A I don't remember.

9 Q Okay. Where did you go after you had been to Ibrahim's
10 apartment complex?

11 A Dropped AK off and then I went home and went to sleep.

12 Q Do you remember whether or not you and your uncle and AK
13 went to Ibrahim's father's house?

14 A I don't remember.

15 Q Okay. You don't remember whether you went there or not?

16 A I'm trying to -- it's kind of blurry to me, that's what
17 I'm saying. I forget a lot so.

18 Q Okay. Do you -- Did you see Mr. Simpson sitting outside?

19 A Mr. Simpson?

20 Q Yes. Ibrahim's father. Before you came in to testify did
21 you see him sitting out in the hallway?

22 A Yeah. I did.

23 Q Do you remember whether or not you went to his house that
24 evening?

25 A It wasn't that evening that we went to his house.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Q Did you go to the funeral for Ibrahim?

2 A The funeral?

3 Q Yes.

4 A Yes, I did.

5 Q You don't remember going to Mr. --

6 A No. I remember him at the funeral.

7 Q Okay. You don't remember whether you went to his house or
8 not that evening?

9 A No. Not -- no.

10 Q Oh. Before you learned that Ibrahim had been killed --

11 A Uh-huh.

12 Q -- had you ever heard of this Muhammad Drawing Contest
13 that was going on in Garland, Texas?

14 A Absolutely, not.

15 MR. MAYNARD: I have no further questions, Your
16 Honor.

17 THE COURT: Any questions, Mr. Koehler?

18 MR. KOEHLER: May I have a moment, Your Honor?

19 THE COURT: Well, it's 4:27, so, no. I was hoping
20 that Mr. Sampson could have his testimony completed by 4:30.

21 MR. KOEHLER: I would like to do that and I'm just
22 reviewing a couple of things to be focused.

23 **CROSS EXAMINATION**

24 BY MR. KOEHLER:

25 Q Good afternoon, Mr. Sampson.

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Hi. How you doing?

2 Q I'm well. How are you?

3 A I'm good.

4 Q Okay. So you've seen me around the courthouse here last
5 week; is that right?

6 A I really wasn't paying attention to all that, so I
7 don't --

8 Q With the exception of being here at the courthouse, have
9 you met me before?

10 A I don't think so.

11 Q Okay. Have you met anybody here at counsel table with me
12 before?

13 A Yes.

14 Q Who?

15 A I don't know if it's her, but I met a lady, but I don't
16 know exactly if it was her or not.

17 Q Ms. Brook?

18 A I don't know if it's Ms. Brook or not.

19 Q Have you had a conversation with her before today?

20 A No.

21 Q All right. So you returned to Phoenix May 1st, 2015,
22 correct?

23 A Yes.

24 Q How long had it been since the last time you had
25 physically been present in Phoenix?

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 A Since 2008 -- no -- 2012, I mean. Yeah. 2012.

2 Q So about three years?

3 A Yeah.

4 Q Give or take?

5 When you went to the masjid on May 1 of 2015, you
6 mentioned that you saw Mr. Simpson there. Did you see your
7 uncle and Mr. Simpson talk that day?

8 A I think right after I shook hands I left.

9 Q Okay.

10 A I don't think I remember -- that's kind of blurry to me.
11 I might have, I might -- my memory is not too good.

12 Q Do you remember giving an interview to FBI agents on May 5
13 of 2015?

14 A Yes.

15 Q You met with Agent Dina McCarthy and Agent Mario Calbone?

16 A Yes.

17 Q And during that interview, do you remember telling them
18 that your uncle Abdul Malik and Simpson briefly talked after
19 masjid?

20 A That's why I said I might have because my memory is
21 blurry.

22 Q So is that something that you did tell the agents that
23 day?

24 A I might have. My memory is blurry. I box, so I just want
25 everybody to know that. So sometimes I forgot. Sometimes I

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 forget.

2 Q The dinner at your uncle's house that Friday, can you go
3 into a little bit more detail?

4 A It wasn't a dinner. Right after Jumu'ah I was hungry. I
5 was going to go get something to eat. Pay for it. But he
6 said, no, I got food here. So I went to his house and I ate
7 there.

8 Q But you mentioned something about other people being
9 invited; is that correct?

10 A Yes.

11 Q Do you know how many people were invited?

12 A I don't know exactly how many people was invited.

13 Q You mentioned there was some kind of problems between him
14 and Mr. Simpson?

15 A Yes, before that. At least that's what I heard.

16 Q Okay. What did you hear?

17 A Basically, they got in an argument or whatever and they
18 wasn't talking to each other.

19 Q Your uncle and Mr. Simpson?

20 A Yes.

21 Q Do you know when the argument had occurred?

22 A No. I just came that day.

23 Q But did your uncle tell you when the argument occurred?

24 A No. He did not say when it occurred.

25 Q Did he say how long it had been since he had spoken to

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1 Mr. Simpson?

2 A No. He did not.

3 MR. KOEHLER: If I can have a moment?

4 You get off easy and we will leave at 4:30.

5 No further questions.

6 THE COURT: Thank you. Any on redirect?

7 MR. MAYNARD: No. We're done.

8 THE COURT: May Mr. Sampson be excused and released
9 from his subpoena?

10 MR. MAYNARD: Yes, ma'am.

11 THE COURT: Any objection?

12 MR. KOEHLER: No, Your Honor.

13 THE COURT: Mr. Sampson, you may step down. You are
14 excused. We are at recess.

15 I'll remind the jury of the admonition not to discuss
16 the case or form any conclusions about it until you have heard
17 all the evidence and begun your deliberations.

18 We will reconvene at nine o'clock tomorrow morning.

19 Court is in recess.

20 (Proceedings adjourned at 4:30 p.m.)

21 * * *

22

23

24

25

CR15-00707-PHX-SRB JURY TRIAL-DAY #11 3-3-16

1
2 C E R T I F I C A T E
3

4 I, ELIZABETH A. LEMKE, do hereby certify that I am
5 duly appointed and qualified to act as Official Court Reporter
6 for the United States District Court for the District of
7 Arizona.

8 I FURTHER CERTIFY that the foregoing pages constitute
9 a full, true, and accurate transcript of all of that portion
10 of the proceedings contained herein, had in the above-entitled
11 cause on the date specified therein, and that said transcript
12 was prepared under my direction and control.

13 DATED at Phoenix, Arizona, this 1st day of August,
14 2016.

15
16
17
18
19 s/Elizabeth A. Lemke
20 ELIZABETH A. LEMKE, RDR, CRR, CPE
21
22
23
24
25